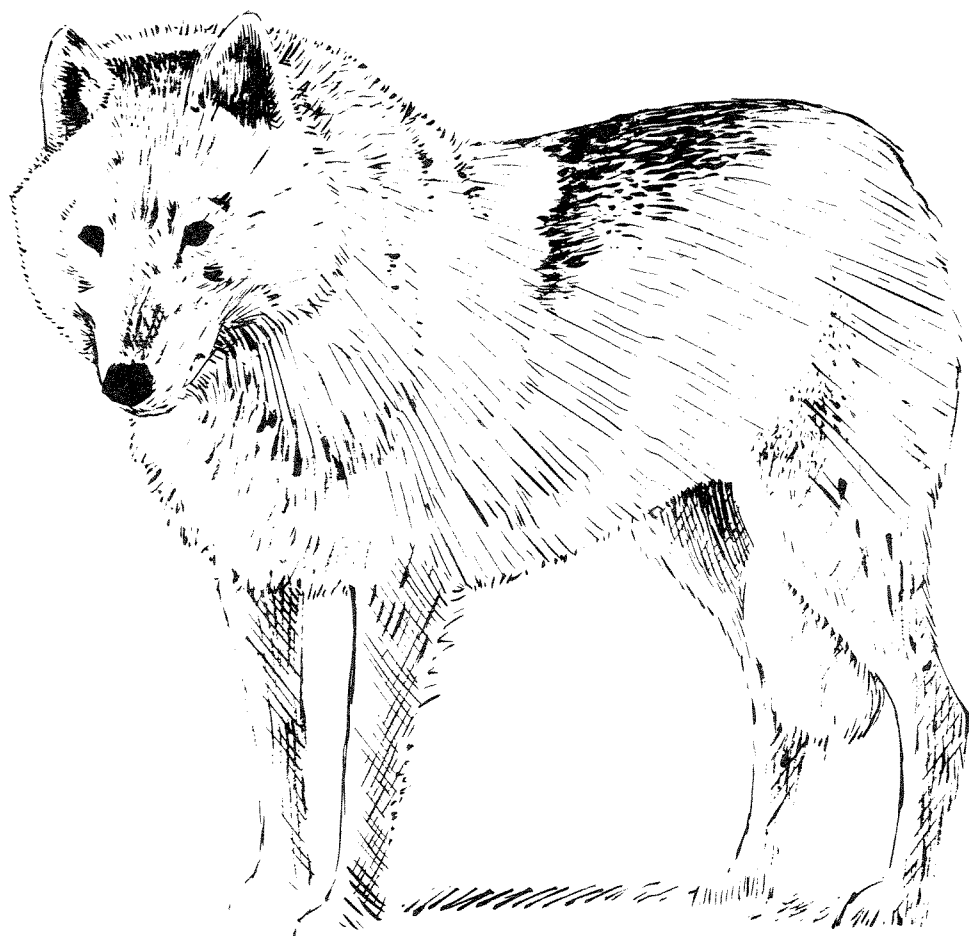


APPENDIXES



APPENDIX A: FINAL RULES ON PUBLIC
USE OF NATIONAL PARK SYSTEM UNITS IN
ALASKA (36 CFR 1.5 and 13 and 43 CFR 36)

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**PART 13—NATIONAL PARK SYSTEM
UNITS IN ALASKA**

Subpart A—Public Use and Recreation

Sec.

- 13.1 Definitions.
- 13.2 Applicability and scope.
- 13.3 Penalties.
- 13.4 Information collection.
- * ~~13.10 Snowmachines.~~
- * ~~13.11 Motorboats.~~
- * ~~13.12 Nonmotorized surface transportation.~~
- * ~~13.13 Aircraft.~~
- * ~~13.14 Off-road vehicles.~~
- * ~~13.15 Access to inholdings.~~
- * ~~13.16 Temporary access.~~
- 13.17 Cabins and other structures.
- 13.18 Camping and picnicking.
- 13.19 Weapons, traps and nets.
- 13.20 Preservation of natural features.
- 13.21 Taking of fish and wildlife.
- 13.22 Unattended or abandoned property.
- 13.30 Closure procedures.
- 13.31 Permits.

Subpart B—Subsistence

- 13.40 Purpose and policy.
- 13.41 Applicability.
- 13.42 Definitions.
- 13.43 Determination of resident zones.
- 13.44 Subsistence permits for persons who permanently reside outside a resident zone.
- 13.45 Prohibition on aircraft use.
- 13.46 Use of snowmobiles, motorboats, dog teams, and other means of surface transportation traditionally employed by local rural residents engaged in subsistence uses.
- 13.47 Subsistence fishing.
- 13.48 Subsistence hunting and trapping.
- 13.49 Subsistence use of timber and plant material.
- 13.50 Closure to subsistence uses.
- 13.51 Application procedures for subsistence permits and aircraft exceptions.

**Subpart C—Special Regulations—Specific
Park Areas in Alaska**

- 13.60 Aniakchak National Monument and Preserve.
- 13.61 Bering Land Bridge National Preserve.
- 13.62 Cape Krusenstern National Monument.
- 13.63 Denali National Park and Preserve.
- 13.64 Gates of the Arctic National Park and Preserve.
- 13.65 Glacier Bay National Park and Preserve.
- 13.66 Katmai National Park and Preserve.
- 13.67 Kenai Fjords National Park.
- 13.68 Klondike Gold Rush National Historical Park.
- 13.69 Kobuk Valley National Park.

Sec.

- 13.70 Lake Clark National Park and Preserve.
- 13.71 Noatak National Preserve.
- 13.72 Sitka National Historical Park.
- 13.73 Wrangell-St. Elias National Park and Preserve.
- 13.74 Yukon-Charley Rivers National Preserve.

Authority: Sec. 3 of the Act of August 15, 1916 (39 Stat. 535, as amended (16 U.S.C. 3); 16 U.S.C. 1, 1a-1, 1c, 482); Alaska National Interest Lands Conservation Act (ANILCA), 94 Stat. 2371 and 1281; Pub. L. No. 96-487 (December 2, 1980); and the Paperwork Reduction Act of 1980, 94 Stat. 2812, Pub. L. No. 96-511.

Subpart A—Public Use and Recreation

§ 13.1 Definitions.

The following definitions shall apply to all regulations contained in this part:

- * (a) The term "adequate and feasible access" means a reasonable method and route of pedestrian or vehicular transportation which is economically practicable for achieving the use or development desired by the applicant on his/her non-federal land or occupancy interest, but does not necessarily mean the least costly alternative.

(b) The term "aircraft" means a machine or device that is used or intended to be used to carry persons or objects in flight through the air, including, but not limited to airplanes, helicopters and gliders.

(c) The term "ANILCA" means the Alaska National Interest Lands Conservation Act (94 Stat. 2371; Pub. L. 96-487 (December 2, 1980)).

(d) The term "carry" means to wear, bear or carry on or about the person and additionally, in the case of firearms, within or upon a device or animal used for transportation.

(e) The term "downed aircraft" means an aircraft that as a result of mechanical failure or accident cannot take off.

(f) The term "firearm" means any loaded or unloaded pistol, revolver, rifle, shotgun or other weapon which will or is designated to or may readily be converted to expel a projectile by the action of expanded gases, except that it does not include a pistol or rifle powered by compressed gas. The term "firearm" also includes irritant gas devices.

(g) The term "fish and wildlife" means any member of the animal kingdom.

*Regulations that were revised as of Sept. 4, 1986

including without limitation any mammal, fish, bird (including any migratory, nonmigratory or endangered bird for which protection is also afforded by treaty or other international agreement), amphibian, reptile, mollusk, crustacean, arthropod, or other invertebrate, and includes any part, produce, egg, or offspring thereof, or the dead body or part thereof.

(h) The term "fossil" means any remains, impression, or trace of any animal or plant of past geological ages that has been preserved, by natural processes, in the earth's crust.

(i) The term "gemstone" means a silica or igneous mineral including, but not limited to (1) geodes, (2) petrified wood, and (3) jade, agate, opal, garnet, or other mineral that when cut and polished is customarily used as jewelry or other ornament.

(j) The term "National Preserve" shall include the following areas of the National Park System:

Alagnak National Wild and Scenic River, Aniakchak National Preserve, Bering Land Bridge National Preserve, Denali National Preserve, Gates of the Arctic National Preserve, Glacier Bay National Preserve, Katmai National Preserve, Lake Clark National Preserve, Noatak National Preserve, Wrangell-St. Elias National Preserve, and Yukon-Charley National Preserve.

(k) The term "net" means a seine, weir, net wire, fish trap, or other implement designed to entrap fish, except a landing net.

(l) The term "off-road vehicle" means any motor vehicle designed for or capable of crosscountry travel on or immediately over land, water, sand, snow, ice, marsh, wetland or other natural terrain, except snowmachines or snowmobiles as defined in this chapter.

(m) The term "park areas" means lands and waters administered by the National Park Service within the State of Alaska.

(n) The term "person" means any individual, firm, corporation, society, association, partnership, or any private or public body.

(o) The term "possession" means exercising dominion or control, with or without ownership, over weapons, traps, nets or other property.

(p) The term "public lands" means lands situated in Alaska which are federally owned lands, except—

(1) land selections of the State of Alaska which have been tentatively approved or validly selected under the Alaska Statehood Act (72 Stat. 339) and lands which have been confirmed to, validly selected by, or granted to the Territory of Alaska or the State under any other provision of Federal law;

(2) land selections of a Native Corporation made under the Alaska Native Claims Settlement Act (85 Stat. 688) which have not been conveyed to a Native Corporation, unless any such selection is determined to be invalid or is relinquished; and

(3) lands referred to in section 19(b) of the Alaska Native Claims Settlement Act.

(q) The term "snowmachine" or "snowmobile" means a self-propelled vehicle intended for off-road travel primarily on snow having a curb weight of not more than 1,000 pounds (450 kg), driven by a track or tracks in contact with the snow and steered by a ski or skis on contact with the snow.

(r) The term "Superintendent" means any National Park Service official in charge of a park area, the Alaska Regional Director of the National Park Service, or an authorized representative of either.

(s) The term "take" or "taking" as used with respect to fish and wildlife, means to pursue, hunt, shoot, trap, net, capture, collect, kill, harm, or attempt to engage in any such conduct.

(t) The term "temporary" means a continuous period of time not to exceed 12 months, except as specifically provided otherwise.

(u) The term "trap" means a snare, trap, mesh, or other implement designed to entrap animals other than fish.

(v) The term "unloaded" means there is no unexpended shell or cartridge in the chamber or magazine of a firearm; bows, crossbows and spearguns are stored in such a manner as to prevent their ready use; muzzle-loading weapons do not contain a powder charge; and any other implement capable of discharging a missile into the air or under the water does not contain a missile or similar device within the loading or discharging mechanism.

(w) The term "weapon" means a firearm, compressed gas or spring powered pistol or rifle, bow and arrow, crossbow, blow gun, speargun, hand thrown spear, slingshot, explosive device, or any other implement designed to discharge missiles into the air or under the water.

§ 13.2 Applicability and scope.

(a) The regulations contained in this Part 13 are prescribed for the proper use and management of park areas in Alaska and supplement the general regulations of this chapter. The general regulations contained in this chapter are applicable except as modified by this Part 13.

(b) Subpart A of this Part 13 contains regulations applicable to park areas. Such regulations amend in part the

general regulations contained in this chapter. The regulations in Subpart A govern use and management, including subsistence activities, within the park areas, except as modified by Subparts B or C.

(c) Subpart B of this Part 13 contains regulations applicable to subsistence activities. Such regulations apply to park areas except Kenai Fjords National Park, Katmai National Park, Glacier Bay National Park, Klondike Gold Rush National Historical Park, Sitka National Historical Park, and parts of Denali National Park. The regulations in Subpart B amend in part the general regulations contained in this chapter and the regulations contained in Subpart A of this Part 13.

(d) Subpart C of this Part 13 contains special regulations for specific park areas. Such regulations amend in part the general regulations contained in this chapter and the regulations contained in Subparts A and B of this Part 13.

(e) The regulations contained in this Part 13 are applicable only on federally owned lands within the boundaries of any park area. For purposes of this part, "federally owned lands" means land interests held or retained by the United States, but does not include those land interests: (1) Tentatively approved, legislatively conveyed, or patented to the State of Alaska; or (2) interim conveyed or patented to a Native Corporation or person.

§ 13.3 Penalties.

Any person convicted of violating any provision of the regulations contained in this Part 13, or as the same may be amended or supplemented, may be punished by a fine not exceeding \$500 or by imprisonment not exceeding 6 months, or both, and may be adjudged to pay all costs of the proceedings (16 U.S.C. 3).

§ 13.4 Information collection.

The information collection requirements contained in §§ 13.13, 13.14, 13.15, 13.16, 13.17, 13.31, 13.44, 13.45, 13.49, and 13.51 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1024-0015. The information is being collected to solicit information necessary for the Superintendent to issue permits and other benefits. This information will be used to grant statutory or administrative benefits. In all sections except 13.13, the obligation to respond is required to obtain a benefit. In § 13.13, the obligation to respond is mandatory.

**** § 36.10 Access to inholdings.**

(a) This section sets forth the procedures to provide adequate and feasible access to inholdings within areas in accordance with section 1110(b) of ANILCA. As used in this section, the term:

(1) "Adequate and feasible access" means a route and method of access that is shown to be reasonably necessary and economically practicable but not necessarily the least costly alternative for achieving the use and development by the applicant on the applicant's nonfederal land or occupancy interest.

(2) "Area" also includes public lands administered by the BLM designated as wilderness study areas.

(3) "Effectively surrounded by" means that physical barriers prevent adequate and feasible access to State or private lands or valid interests in lands except across an area(s). Physical barriers include but are not limited to rugged mountain terrain, extensive marsh areas, shallow water depths and the presence of ice for large periods of the year.

(4) "Inholding" means State-owned or privately owned land, including subsurface rights of such owners underlying public lands or a valid mining claim or other valid occupancy that is within or is effectively surrounded by one or more areas.

(b) It is the purpose of this section to ensure adequate and feasible access across areas for any person who has a valid inholding. A right-of-way permit for access to an inholding pursuant to this section is required only when this part does not provide for adequate and feasible access without a right-of-way permit.

(c) Applications for a right-of-way permit for access to an inholding shall be filed with the appropriate Federal agency on a SF 299. Mining claimants who have acquired their rights under the General Mining Law of 1872 may file their request for access as a part of their plan of operations. The appropriate Federal agency may require the mining claimant applicant to file a SF 299, if in its discretion, it determines that more complete information is needed. Applicants should ensure that the following information is provided:

(1) Documentation of the property interest held by the applicant including, for claimants under the General Mining Law of 1872, as amended (30 U.S.C. 21-54), a copy of the location notice and recordations required by 43 U.S.C. 1744;

(2) A detailed description of the use of the inholding for which the applied for right-of-way permit is to serve; and

(3) If applicable, rationale demonstrating that the inholding is effectively surrounded by an area(s).

(d) The application shall be filed in the same manner as under § 36.4 and shall be reviewed and processed in accordance with §§ 36.5 and 36.6.

(e)(1) For any applicant who meets the criteria of paragraph (b) of this section, the appropriate Federal agency shall specify in a right-of-way permit the route(s) and method(s) of access across the area(s) desired by the applicant, unless it is determined that:

(i) The route or method of access would cause significant adverse impacts on natural or other values of the area and adequate and feasible access otherwise exists; or

(ii) The route or method of access would jeopardize public health and safety and adequate and feasible access otherwise exists; or

(iii) The route or method is inconsistent with the management plan(s) for the area or purposes for which the area was established and adequate and feasible access otherwise exists; or

(iv) The method is unnecessary to accomplish the applicant's land use objective.

(2) If the appropriate Federal agency makes one of the findings described in paragraph (e)(1) of this Section, another alternate route(s) and/or method(s) of access that will provide the applicant adequate and feasible access shall be specified by that Federal agency in the right-of-way permit after consultation with the applicant.

(f) All right-of-way permits issued pursuant to this section shall be subject to terms and conditions in the same manner as right-of-way permits issued pursuant to § 36.9.

(g) The decision by the appropriate Federal agency under this section is the final administrative decision.

**** § 36.11 Special access.**

(a) This section implements the provisions of section 1110(a) of ANILCA regarding use of snowmachines, motorboats, nonmotorized surface transportation, aircraft, as well as off-road vehicle use.

As used in this section, the term:

(1) "Area" also includes public lands administered by the BLM and designated as wilderness study areas.

(2) "Adequate snow cover" shall mean snow of sufficient depth, generally 6-12 inches or more, or a combination of snow and frost depth sufficient to protect the underlying vegetation and soil.

(b) Nothing in this section affects the use of snowmobiles, motorboats and nonmotorized means of surface transportation traditionally used by rural residents engaged in subsistence activities, as defined in Title VIII of ANILCA.

(c) The use of snowmachines (during periods of adequate snow cover and frozen river conditions) for traditional activities (where such activities are permitted by ANILCA or other law) and for travel to and from villages and homesites and other valid occupancies is permitted within the areas, except where such use is prohibited or otherwise restricted by the appropriate Federal agency in accordance with the procedures of paragraph (h) of this section.

(d) Motorboats may be operated on all area waters, except where such use is prohibited or otherwise restricted by the appropriate Federal agency in accordance with the procedures of paragraph (h) of this section.

(e) The use of nonmotorized surface transportation such as domestic dogs, horses and other pack or saddle animals is permitted in areas except where such use is prohibited or otherwise restricted by the appropriate Federal agency in accordance with the procedures of paragraph (h) of this section.

(f) Aircraft.

(1) Fixed-wing aircraft may be landed and operated on lands and waters within areas, except where such use is prohibited or otherwise restricted by the appropriate Federal agency, including closures or restrictions pursuant to the closures of paragraph (h) of this section. The use of aircraft for access to or from lands and waters within a national park or monument for purposes of taking fish and wildlife for subsistence uses therein is prohibited, except as provided in 36 CFR 13.45. The operation of aircraft resulting in the harassment of wildlife is prohibited.

** Sept. 4, 1986, revisions--43 CFR 36.10, 36.11, and 36.12.

(2) In imposing any prohibitions or restrictions on fixed-wing aircraft use the appropriate Federal agency shall

(i) Publish notice of prohibition or restrictions in "Notices to Airmen" issued by the Department of Transportation; and

(ii) Publish permanent prohibitions or restrictions as a regulatory notice in the United States Flight Information Service "Supplement Alaska."

(3) Except as provided in paragraph (f)(3)(i) of this section, the owners of any aircraft downed after December 2, 1980, shall remove the aircraft and all component parts thereof in accordance with procedures established by the appropriate Federal agency. In establishing a removal procedure, the appropriate Federal agency is authorized to establish a reasonable date by which aircraft removal operations must be complete and determine times and means of access to and from the downed aircraft.

(i) The appropriate Federal agency may waive the requirements of this paragraph upon a determination that the removal of downed aircraft would constitute an unacceptable risk to human life, or the removal of a downed aircraft would result in extensive resource damage, or the removal of a downed aircraft is otherwise impracticable or impossible.

(ii) Salvaging, removing, possessing or attempting to salvage, remove or possess any downed aircraft or component parts thereof is prohibited, except in accordance with a removal procedure established under this paragraph and as may be controlled by the other laws and regulations.

(4) The use of a helicopter in any area other than at designated landing areas pursuant to the terms and conditions of a permit issued by the appropriate Federal agency, or pursuant to a memorandum of understanding between the appropriate Federal agency and another party, or involved in emergency or search and rescue operations is prohibited.

(9) Off-road vehicles.

(1) The use of off-road vehicles (ORV) in locations other than established roads and parking areas is prohibited, except on routes or in areas designated by the appropriate Federal agency in accordance with Executive Order 11644, as amended or pursuant to a valid permit as prescribed in paragraph (g)(2) of this section or in §§ 36.10 or 36.12.

(2) The appropriate Federal agency is authorized to issue permits for the use of ORVs on existing ORV trails located in areas (other than in areas designated as part of the National Wilderness

Preservation System) upon a finding that such ORV use would be compatible with the purposes and values for which the area was established. The appropriate Federal agency shall include in any permit such stipulations and conditions as are necessary for the protection of those purposes and values.

(h) Closure procedures.

(1) The appropriate Federal agency may close an area on a temporary or permanent basis to use of aircraft, snowmachines, motorboats or nonmotorized surface transportation only upon a finding by the agency that such use would be detrimental to the resource values of the area.

(2) Temporary closures.

(i) Temporary closures shall not be effective prior to notice and hearing in the vicinity of the area(s) directly affected by such closures and other locations as appropriate.

(ii) A temporary closure shall not exceed 12 months.

(3) Permanent closures shall be published by rulemaking in the Federal Register with a minimum public comment period of 60 days and shall not be effective until after a public hearing(s) is held in the affected vicinity and other locations as deemed appropriate by the appropriate Federal agency.

(4) Temporary and permanent closures shall be (i) publishing at least once in a newspaper of general circulation in Alaska and in a local newspaper, if available; posted at community post offices within the vicinity affected; made available for broadcast on local radio stations in a manner reasonably calculated to inform residents in the affected vicinity; and designated on a map which shall be available for public inspection at the office of the appropriate Federal agency and other places convenient to the public; or (ii) designated by posting the area with appropriate signs; or (iii) both.

(5) In determining whether to open an area that has previously been closed pursuant to the provisions of this section, the appropriate Federal agency shall provide notice in the Federal Register and shall, upon request, hold a hearing in the affected vicinity and other locations as appropriate prior to making a final determination.

(6) Nothing in this section shall limit the authority of the appropriate Federal agency to restrict or limit uses of an area under other statutory authority.

*** * § 36.12 Temporary access.**

(i) Except as otherwise specifically permitted under the provisions of this section, entry into closed areas or failure to abide by restrictions established under this section is prohibited.

(j) Any person convicted of violating any provision of the regulations contained in this section, or as the same may be amended or supplemented, may be punished by a fine or by imprisonment in accordance with the penalty provisions applicable to the area.

(a) For the purposes of this section, the term:

(1) "Area" also includes public lands administered by the BLM designated as wilderness study areas or managed to maintain the wilderness character or potential thereof, and the National Petroleum Reserve—Alaska.

(2) "Temporary access" means limited, short-term (i.e., up to one year from issuance of the permit) access which does not require permanent facilities for access to State or private lands.

(b) This section is applicable to State and private landowners who desire temporary access across an area for the purposes of survey, geophysical, exploratory and other temporary uses of such non-federal lands, and where such temporary access is not affirmatively provided for in §§ 36.10 and 36.11. State and private landowners meeting the criteria of § 36.10(b) are directed to use the procedures of § 36.10 to obtain temporary access.

(c) A landowner requiring temporary access across an area for survey, geophysical, exploratory or similar temporary activities shall apply to the appropriate Federal agency for an access permit by providing the relevant information requested in the SF 299.

(d) The appropriate Federal agency shall grant the desired temporary access whenever it is determined, after compliance with the requirements of NEPA, that such access will not result in permanent harm to the area's resources. The area manager shall include in any permit granted such stipulations and conditions on temporary access as are necessary to ensure that the access granted would not be inconsistent with the purposes for which the area was established and to ensure that no permanent harm will result to the area's resources and section 810 of ANILCA is complied with.

§ 13.17 Cabins and other structures.

(a) *Purpose.* It is the purpose of this section to provide procedures and guidance for those occupying and using existing cabins and those wishing to construct new cabins within park areas.

(b) *Existing cabins or other structures.*

(1) This subsection applies to all park areas in Alaska except Klondike Gold Rush National Historical Park, Sitka National Historical Park and the former Mt. McKinley National Park, Glacier Bay National Monument and Katmai National Monument.

(2) Cabins or other structures existing prior to December 18, 1973, may be occupied and used by the claimants to these structures pursuant to a nontransferable, renewable permit. This use and occupancy shall be for terms of five years. *Provided, however,* That the claimant to the structure, by application:

(i) Reasonably demonstrates by affidavit, bill of sale or other documentation proof of possessory interest or right of occupancy in the cabin or structure;

(ii) Submits an acceptable photograph or sketch which accurately depicts the cabin or structure and a map showing its geographic location;

(iii) Agrees to vacate and remove all personal property from the cabin or structure upon expiration of the permit;

(iv) Acknowledges in the permit that he/she has no interest in the real property on which the cabin or structure is located; and

(v) Submits a listing of the names of all immediate family members residing in the cabin or structure.

Permits issued under the provisions of this paragraph shall be renewed every five years until the death of the last immediate family member of the claimant residing in the cabin or structure under permit. Renewal will occur unless the Superintendent determines after notice and hearing, and on the basis of substantial evidence in the administrative record as a whole, that the use under the permit is causing or may cause significant detriment to the principal purposes for which the park area was established. The Superintendent's decision may be appealed pursuant to the provisions of 43 CFR 4.700.

(3) Cabins or other structures, the occupancy or use of which began between December 18, 1973, and December 1, 1978, may be used and occupied by the claimant to these structures pursuant to a nontransferable, nonrenewable permit. This use and occupancy shall be for a maximum term of 1 year: *Provided, however,* That the claimant, by application, complies with § 13.17(c)(1) (i) through (iv) above. Permits issued under the provisions of this paragraph may be extended by the Superintendent, subject to reasonable regulations, for a period not to exceed one year for such reasons as the Superintendent deems equitable and just.

(4) Cabins or other structures, construction of which began after December 1, 1978, shall not be available for use and occupancy, unless authorized under the provisions of paragraph (d) of this section.

(5) Cabins or other structures, not under permit, shall be used only for official government business: *Provided, however,* That during emergencies involving the safety of human life, or where designated for public use by the Superintendent through the posting of signs, these cabins may be used by the general public.

(c) *New Cabins or Other Structures Necessary for Subsistence Uses or Otherwise Authorized by Law.* The Superintendent may issue a permit under such conditions as he/she may prescribe for the construction, reconstruction, temporary use, occupancy, and maintenance of new cabins or other structures when he/she determines that the use is necessary to accommodate reasonably subsistence uses or is otherwise authorized by law. In determining whether to permit the use, occupancy, construction, reconstruction or maintenance of cabins or other structures, the Superintendent shall be guided by factors such as other public uses, public health and safety, environmental and resource protection, research activities, protection of cultural or scientific values, subsistence uses, endangered or threatened species conservation and other management considerations necessary to ensure that the activities authorized pursuant to this section are compatible with the purposes for which the park area was established.

(d) *Existing Cabin Leases or Permits.* Nothing in this section shall preclude the renewal or continuation of valid leases or permits in effect as of December 2, 1980, for cabins, homesites, or similar structures on federally owned lands. Unless the Superintendent issues specific findings, following notice and

an opportunity for the leaseholder or permittee to respond, that renewal or continuation of such valid permit or lease constitutes a direct threat or a significant impairment to the purposes for which the park area was established, he/she shall renew such valid leases or permits upon their expiration in accordance with the provisions of the original lease or permit subject to such reasonable regulations as he/she prescribe in keeping with the management objectives of the park area. Subject to the provisions of the original lease or permit, nothing in this paragraph shall necessarily preclude the Superintendent from transferring such a lease or permit to another person at the election or death of the original permittee or leasee.

§ 13.18 Camping and picnicking.

(a) *Camping.* Camping is permitted in park areas except where such use is prohibited or otherwise restricted by the Superintendent in accordance with the provisions of § 13.30, or as set forth for specific park areas in Subpart C of this part.

(b) *Picnicking.* Picnicking is permitted in park areas except where such activity is prohibited by the posting of appropriate signs.

§ 13.19 Weapons, traps and nets.

(a) This section applies to all park areas in Alaska except Klondike Gold Rush National Historical Park, Sitka National Historical Park and the former Mt. McKinley National Park, Glacier Bay National Monument and Katmai National Monument.

(b) Firearms may be carried within park areas in accordance with applicable Federal and State laws, except where such carrying is prohibited or otherwise restricted pursuant to § 13.30.

(c) Traps, bows and other implements authorized by State and Federal law for the taking of fish and wildlife may be carried within National Preserves only during those times when the taking of fish and wildlife is authorized by applicable law or regulation.

(d) In addition to the authorities provided in paragraphs (b) and (c) of this section, weapons (other than firearms) traps and nets may be possessed within park areas provided such weapons, traps or nets are within or upon a device or animal used for transportation and are unloaded and cased or otherwise packed in such a manner as to prevent their ready use while in a park area.

(e) Notwithstanding the provisions of this section, local rural residents who are authorized to engage in subsistence

uses, including the taking of wildlife pursuant to § 13.48, may use, possess, or carry traps, nets and other weapons in accordance with applicable State and Federal laws.

§ 13.20 Preservation of natural features.

(a) This section applies to all park areas in Alaska except Klondike Gold Rush National Historical Park, Sitka National Historical Park, the former Mt. McKinley National Park, Glacier Bay National Monument, and Katmai National Monument.

(b) *Renewable Resources.* The gathering or collecting, by hand and for personal use only, of the following renewable resources is permitted:

(1) Natural plant food items, including fruits, berries and mushrooms, but not including threatened or endangered species;

(2) Driftwood and uninhabited seashells;

(3) Such plant materials and minerals as are essential to the conduct of traditional ceremonies by Native Americans; and

(4) Dead or downed wood for use in fires within park areas.

(c) *Rocks and Minerals.* Surface collection, by hand (including hand-held gold pans) and for personal recreational use only, of rocks and minerals is permitted: *Provided, however,* That (1) collection of silver, platinum, gemstones and fossils is prohibited, and (2) collection methods which may result in disturbance of the ground surface, such as the use of shovels, pickaxes, sluice boxes, and dredges, are prohibited.

(d) *Closure and Notice.* Under conditions where it is found that significant adverse impact on park resources, wildlife populations, subsistence uses, or visitor enjoyment of resources will result, the Superintendent shall prohibit the gathering or otherwise restrict the collecting of these items. Portions of a park area in which closures or restrictions apply shall be (1) published in at least one newspaper of general circulation in the State and designated on a map which shall be available for public inspection in the office of the Superintendent, or (2) designated by the posting of appropriate signs, or (3) both.

(e) *Subsistence.* Nothing in this section shall apply to local rural residents authorized to take renewable resources.

§ 13.21 Taking of fish and wildlife.

(a) *Subsistence.* Nothing in this section shall apply to the taking of fish and wildlife for subsistence uses.

(b) *Fishing.* Fishing is permitted in all park areas in accordance with applicable State and Federal law, and such laws are hereby adopted and made a part of these regulations to the extent they are not inconsistent with § 2.13 of this chapter. With respect to the Cape Krusenstern National Monument, the Malaspina Glacier Forelands area of the Wrangell-St. Elias National Preserve, and the Dry Bay area of Glacier Bay National Preserve, the exercise of valid commercial fishing rights or privileges obtained pursuant to existing law—including any use of park area lands for campsites, cabins, motorized vehicles, and aircraft landings on existing airstrips which is directly incident to the exercise of such rights or privileges—may continue: *Provided, however,* That the Superintendent may restrict the use of park area lands directly incident to the exercise of these rights or privileges if he/she determines, after conducting a public hearing in the affected locality, that such use of park area lands constitutes a significant expansion of the use of park area lands beyond the level of such use during 1979.

(c) *Hunting and Trapping.* Hunting and trapping are permitted in all National Preserves in accordance with applicable State and Federal law, and such laws are hereby adopted and made a part of these regulations: *Provided, however,* That engaging in trapping activities, as the employee of another person is prohibited.

(d) *Closures and Restrictions.* The Superintendent may prohibit or restrict the taking of fish or wildlife in accordance with the provisions of § 13.30. Except in emergency conditions, such restrictions shall take effect only after consultation with the appropriate State agency having responsibility over fishing, hunting, or trapping and representatives of affected users.

§ 13.22 Unattended or abandoned property.

(a) This section applies to all park areas in Alaska except Klondike Gold Rush National Historical Park and Sitka National Historical Park, or as further restricted for specific park areas in Subpart C of this part.

(b) Leaving any snowmachine, vessel, off-road vehicle or other personal property unattended for longer than 12 months without prior permission of the Superintendent is prohibited, and any property so left may be impounded by the Superintendent.

(c) The Superintendent may (1) designate areas where personal property may not be left unattended for any time period, (2) establish limits on the amount, and type of personal property

that may be left unattended, (3) prescribe the manner in which personal property may be left unattended, or (4) establish limits on the length of time personal property may be left unattended. Such designations and restrictions shall be (i) published in at least one newspaper of general circulation within the State, posted at community post offices within the vicinity affected, made available for broadcast on local radio stations in a manner reasonably calculated to inform residents in the affected community, and designated on a map which shall be available for public inspection at the office of the Superintendent, or (ii) designated by the posting of appropriate signs or (iii) both.

(d) In the event unattended property interferes with the safe and orderly management of a park area or is causing damage to the resources of the area, it may be impounded by the Superintendent at any time.

§ 13.30 Closure procedures.

(a) *Authority.* The Superintendent may close an area or restrict an activity on an emergency, temporary, or permanent basis.

(b) *Criteria.* In determining whether to close an area or restrict an activity on an emergency basis, the Superintendent shall be guided by factors such as public health and safety, resource protection, protection of cultural or scientific values, subsistence uses, endangered or threatened species conservation, and other management considerations necessary to ensure that the activity or area is being managed in a manner compatible with the purposes for which the park area was established.

(c) *Emergency Closures.* (1) Emergency closures or restrictions relating to the use of aircraft, snowmachines, motorboats, or nonmotorized surface transportation shall be made after notice and hearing; (2) emergency closures or restrictions relating to the taking of fish and wildlife shall be accompanied by notice and hearing; (3) other emergency closures shall become effective upon notice as prescribed in § 13.30(f); and (4) no emergency closure or restriction shall extend for a period exceeding 30 days, nor may it be extended.

(d) *Temporary closures or restrictions.* (1) Temporary closures or restrictions relating to the use of aircraft, snowmachines, motorboats, or nonmotorized surface transportation or to the taking of fish and wildlife, shall not be effective prior to notice and hearing in the vicinity of the area(s) directly affected by such closures or restrictions, and other locations as

appropriate; (2) other temporary closures shall be effective upon notice as prescribed in § 13.30(f); (3) temporary closures or restrictions shall not extend for a period exceeding 12 months and may not be extended.

(e) *Permanent closures or restrictions.* Permanent closures or restrictions shall be published as rulemaking in the **Federal Register** with a minimum public comment period of 60 days and shall be accompanied by public hearings in the area affected and other locations as appropriate.

(f) *Notice.* Emergency, temporary and permanent closures or restrictions shall be (1) published in at least one newspaper of general circulation in the State and in at least one local newspaper if available, posted at community post offices within the vicinity affected, made available for broadcast on local radio stations in a manner reasonably calculated to inform residents in the affected vicinity, and designated on a map which shall be available for public inspection at the office of the Superintendent and other places convenient to the public; or (2) designated by the posting of appropriate signs; or (3) both.

(g) *Openings.* In determining whether to open an area to public use or activity otherwise prohibited, the Superintendent shall provide notice in the **Federal Register** and shall, upon request, hold a hearing in the affected vicinity and other locations as appropriate prior to making a final determination.

(h) Except as otherwise specifically permitted under the provisions of this part, entry into closed areas or failure to abide by restrictions established under this section is prohibited.

§ 13.31 Permits.

(a) *Application.* (1) Application for a permit required by any section of this part shall be submitted to the Superintendent having jurisdiction over the affected park area, or in the absence of the Superintendent, the Regional Director. If the applicant is unable or does not wish to submit the application in written form, the Superintendent shall provide the applicant an opportunity to present the application orally and shall keep a record of such oral application.

(2) The Superintendent shall grant or deny the application in writing within 45 days. If this deadline cannot be met for good cause, the Superintendent shall so notify the applicant in writing. If the permit application is denied, the Superintendent shall specify in writing the reasons for the denial.

(b) *Denial and appeal procedures.* (1) An applicant whose application for a permit, required pursuant to this part, has been denied by the Superintendent has the right to have the application reconsidered by the Regional Director by contacting him/her within 180 days of the issuance of the denial. For purposes of reconsideration, the permit applicant shall present the following information:

(i) Any statement or documentation, in addition to that included in the initial application, which demonstrates that the applicant satisfies the criteria set forth in the section under which the permit application is made.

(ii) The basis for the permit applicant's disagreement with the Superintendent's findings and conclusions; and

(iii) Whether or not the permit applicant requests an informal hearing before the Regional Director.

(2) The Regional Director shall provide a hearing if requested by the applicant. After consideration of the written materials and oral hearing, if any, and within a reasonable period of time, the Regional Director shall affirm, reverse, or modify the denial of the Superintendent and shall set forth in writing the basis for the decision. A copy of the decision shall be forwarded promptly to the applicant and shall constitute final agency action.

Subpart B—Subsistence

§ 13.40 Purpose and policy.

(a) Consistent with the management of fish and wildlife in accordance with recognized scientific principles and the purposes for which each park area was established, designated, or expanded by ANILCA, the purpose of this subpart is to provide the opportunity for local rural residents engaged in a subsistence way of life to do so pursuant to applicable State and Federal law.

(b) Consistent with sound management principles, and the conservation of healthy populations of fish and wildlife, the utilization of park areas is to cause the least adverse impact possible on local rural residents who depend upon subsistence uses of the resources of the public lands in Alaska.

(c) Nonwasteful subsistence uses of fish, wildlife and other renewable resources by local rural residents shall be the priority consumptive uses of such resources over any other consumptive uses permitted within park areas pursuant to applicable State and Federal law.

(d) Whenever it is necessary to restrict the taking of a fish or wildlife

population within a park area for subsistence uses in order to assure the continued viability of such population or to continue subsistence uses of such population, the population shall be allocated among local rural residents engaged in subsistence uses in accordance with a subsistence priority system based on the following criteria:

(1) Customary and direct dependence upon the resource as the mainstay of one's livelihood;

(2) Local residency; and

(3) Availability of alternative resources.

(e) The State of Alaska is authorized to regulate the taking of fish and wildlife for subsistence uses within park areas to the extent such regulation is consistent with applicable Federal law, including but not limited to ANILCA.

(f) Nothing in this subpart shall be construed as permitting a level of subsistence use of fish and wildlife within park areas to be inconsistent with the conservation of healthy populations, and within a national park or monument to be inconsistent with the conservation of natural and healthy populations of fish and wildlife.

§ 13.41 Applicability.

Subsistence uses by local rural residents are allowed pursuant to the regulations of this Subpart in the following park areas:

(a) In national preserves;

(b) In Cape Krusenstern National Monument and Kobuk Valley National Park;

(c) Where such uses are traditional (as may be further designated for each park or monument in Subpart C of this part) in Aniakchak National Monument, Gates of the Arctic National Park, Lake Clark National Park, Wrangell-St. Elias National Park, and the Denali National Park addition.

§ 13.42 Definitions.

(a) *Local rural resident.* (1) As used in this part with respect to national parks and monuments, the term "local rural resident" shall mean either of the following:

(i) Any person who has his/her primary, permanent home within the resident zone as defined by this section, and whenever absent from this primary, permanent home, has the intention of returning to it. Factors demonstrating the location of a person's primary, permanent home may include, but are not limited to, the permanent address indicated on licenses issued by the State of Alaska Department of Fish and Game, driver's license, and tax returns, and the location of registration to vote.

(ii) Any person authorized to engage in subsistence uses in a national park or monument by a subsistence permit issued pursuant to § 13.44.

(b) *Resident zone.* As used in this part, the term "resident zone" shall mean the area within, and the communities and areas near, a national park or monument in which persons who have customarily and traditionally engaged in subsistence uses within the national park or monument permanently reside. The communities and areas near a national park or monument included as a part of its resident zone shall be determined pursuant to § 13.43 and listed for each national park or monument in Subpart C of this part.

(c) *Subsistence uses.* As used in this part, the term "subsistence uses" shall mean the customary and traditional uses by rural Alaska residents of wild, renewable resources for direct personal or family consumption as food, shelter, fuel, clothing, tools or transportation; for the making and selling of handicraft articles out of nonedible byproducts of fish and wildlife resources taken for personal or family consumption; for barter or sharing for personal or family consumption; and for customary trade. For the purposes of this paragraph, the term—

(1) "Family" shall mean all persons related by blood, marriage, or adoption, or any person living within the household on a permanent basis; and

(2) "Barter" shall mean the exchange of fish or wildlife or their parts taken for subsistence uses—

(i) For other fish or game or their parts; or

(ii) For other food or for nonedible items other than money if the exchange is of a limited and noncommercial nature; and

(3) "Customary trade" shall be limited to the exchange of furs for cash (and such other activities as may be designated for a specific park area in Subpart C of this part).

§ 13.43 Determination of resident zones.

(a) A resident zone shall include—

(1) the area within a national park or monument, and

(2) the communities and areas near a national park or monument which contain significant concentrations of rural residents who, without using aircraft as a means of access for purposes of taking fish or wildlife for subsistence uses (except in extraordinary cases where no reasonable alternative existed), have customarily and traditionally engaged in subsistence uses within a national park or monument. For purposes of

determining "significant" concentrations, family members shall also be included.

(b) After notice and comment, including public hearing in the affected local vicinity, a community or area near a national park or monument may be—

(1) Added to a resident zone, or

(2) Deleted from a resident zone, when such community or area does or does not meet the criteria set forth in paragraph (a) of this section, as appropriate.

(c) For purposes of this section, the term "family" shall mean all persons living within a rural resident's household on a permanent basis.

§ 13.44 Subsistence permits for persons whose primary, permanent home is outside a resident zone.

(a) Any rural resident whose primary, permanent home is outside the boundaries of a resident zone of a national park or monument may apply to the appropriate Superintendent pursuant to the procedures set forth in § 13.51 for a subsistence permit authorizing the permit applicant to engage in subsistence uses within the national park or monument. The Superintendent shall grant the permit if the permit applicant demonstrates that:

(1) Without using aircraft as a means of access for purposes of taking fish and wildlife for subsistence uses, the applicant has (or is a member of a family which has) customarily and traditionally engaged in subsistence uses within a national park or monument; or

(2) The applicant is a local rural resident within a resident zone for another national park or monument, or meets the requirements of paragraph (1) of this section for another national park or monument, and there exists a pattern of subsistence uses (without use of an aircraft as a means of access for purposes of taking fish and wildlife for subsistence uses) between the national park or monument previously utilized by the permit applicant and the national park or monument for which the permit applicant seeks a subsistence permit.

(b) In order to provide for subsistence uses pending application for and receipt of a subsistence permit, until August 1, 1981, any rural resident whose primary permanent home is outside the boundaries of a resident zone of a national park or monument and who meets the criteria for a subsistence permit set forth in paragraph (a) of this section may engage in subsistence uses in the national park or monument without a permit in accordance with applicable State and Federal law. Effective August 1, 1981, however, such

rural resident must have a subsistence permit as required by paragraph (a) of this section in order to engage in subsistence uses in the national park or monument.

(c) For purposes of this section, the term "family" shall mean all persons living within a rural resident's household on a permanent basis.

§ 13.45 Prohibition of aircraft use.

(a) Notwithstanding the provisions of § 13.12 the use of aircraft for access to or from lands and waters within a national park or monument for purposes of taking fish or wildlife for subsistence uses within the national park or monument is prohibited except as provided in this section.

(b) *Exceptions.* (1) In extraordinary cases where no reasonable alternative exists, the Superintendent shall permit, pursuant to specified terms and conditions, a local rural resident of an "exempted community" to use aircraft for access to or from lands and water within a national park or monument for purposes of taking fish or wildlife for subsistence uses.

(i) A community shall qualify as an "exempted community" if, because of the location of the subsistence resources upon which it depends and the extraordinary difficulty of surface access to these subsistence resources, the local rural residents who permanently reside in the community have no reasonable alternative to aircraft use for access to these subsistence resources.

(ii) A community which is determined, after notice and comment (including public hearing in the affected local vicinity), to meet the description of an "exempted community" set forth in paragraph (b)(1) of this section shall be included in the appropriate special regulations for each park and monument set forth in Subpart C of this part.

(iii) A community included as an "exempted community" in Subpart C of this part may be deleted therefrom upon a determination, after notice and comment (including public hearing in the affected local vicinity), that it does not meet the description of an "exempted community" set forth in paragraph (b)(1) of this section.

(2) Any local rural resident aggrieved by the prohibition on aircraft use set forth in this section may apply for an exception to the prohibition pursuant to the procedures set forth in § 13.51. In extraordinary cases where no reasonable alternative exists, the Superintendent may grant the exception upon a determination that the location of the subsistence resources depended upon and the difficulty of surface access

to these resources, or other emergency situation, requires such relief.

(c) Nothing in this section shall prohibit the use of aircraft for access to lands and waters within a national park or monument for purposes of engaging in any activity allowed by law other than the taking of fish and wildlife. Such activities include, but are not limited to, transporting supplies.

§ 13.46 Use of snowmobiles, motorboats, dog teams, and other means of surface transportation traditionally employed by local rural residents engaged in subsistence uses.

(a) Notwithstanding any other provision of this chapter, the use of snowmobiles, motorboats, dog teams, and other means of surface transportation traditionally employed by local rural residents engaged in subsistence uses is permitted within park areas except at those times and in those areas restricted or closed by the Superintendent.

(b) The Superintendent may restrict or close a route or area to use of snowmobiles, motorboats, dog teams, or other means of surface transportation traditionally employed by local rural residents engaged in subsistence uses if the Superintendent determines that such use is causing or is likely to cause an adverse impact on public health and safety, resource protection, protection of historic or scientific values, subsistence uses, conservation of endangered or threatened species, or the purposes for which the park area was established.

(c) No restrictions or closures shall be imposed without notice and a public hearing in the affected vicinity and other locations as appropriate. In the case of emergency situations, restrictions or closures shall not exceed sixty (60) days and shall not be extended unless the Superintendent establishes, after notice and public hearing in the affected vicinity and other locations as appropriate, that such extension is justified according to the factors set forth in paragraph (b) of this section. Notice of the proposed or emergency restrictions or closures and the reasons therefor shall be published in at least one newspaper of general circulation within the State and in at least one local newspaper if appropriate, and information about such proposed or emergency actions shall also be made available for broadcast on local radio stations in a manner reasonably calculated to inform local rural residents in the affected vicinity. All restrictions and closures shall be designated on a map which shall be available for public inspection at the office of the

Superintendent of the affected park area and the post office or postal authority of every affected community within or near the park area, or by the posting of signs in the vicinity of the restrictions or closures, or both.

(d) Motorboats, snowmobiles, dog teams, and other means of surface transportation traditionally employed by local rural residents engaged in subsistence uses shall be operated (1) in compliance with applicable State and Federal law, (2) in such a manner as to prevent waste or damage to the park areas, and (3) in such a manner as to prevent the herding, harassment, hazing or driving of wildlife for hunting or other purposes.

(e) At all times when not engaged in subsistence uses, local rural residents may use snowmobiles, motorboats, dog teams, and other means of surface transportation in accordance with §§ 13.10, 13.11, 13.12, and 13.14, respectively.

§ 13.47 Subsistence fishing.

Fish may be taken by local rural residents for subsistence uses in park areas where subsistence uses are allowed in compliance with applicable State and Federal law, including the provisions of §§ 2.13 and 13.21 of this chapter: *Provided, however,* That local rural residents in park areas where subsistence uses are allowed may fish with a net, seine, trap, or spear where permitted by State law. To the extent consistent with the provisions of this chapter, applicable State laws and regulations governing the taking of fish which are now or will hereafter be in effect are hereby incorporated by reference as a part of these regulations.

§ 13.48 Subsistence hunting and trapping

Local rural residents may hunt and trap wildlife for subsistence uses in park areas where subsistence uses are allowed in compliance with applicable State and Federal law. To the extent consistent with the provisions of this chapter, applicable State laws and regulations governing the taking of wildlife which are now or will hereafter be in effect are hereby incorporated by reference as a part of these regulations.

§ 13.49 Subsistence use of timber and plant material.

(a) Notwithstanding any other provision of this part, the non-commercial cutting of live standing timber by local rural residents for appropriate subsistence uses, such as firewood or house logs, may be permitted in park areas where subsistence uses are allowed as follows:

(1) For live standing timber of diameter greater than three inches at ground height, the Superintendent may permit cutting in accordance with the specifications of a permit if such cutting is determined to be compatible with the purposes for which the park area was established;

(2) For live standing timber of diameter less than three inches at ground height, cutting is permitted unless restricted by the Superintendent.

(b) The noncommercial gathering by local rural residents of fruits, berries, mushrooms, and other plant materials for subsistence uses, and the noncommercial gathering of dead or downed timber for firewood, shall be allowed without a permit in park areas where subsistence uses are allowed.

(c)(1) Notwithstanding any other provision of this part, the Superintendent, after notice and public hearing in the affected vicinity and other locations as appropriate, may temporarily close all or any portion of a park area to subsistence uses of a particular plant population only if necessary for reasons of public safety, administration, or to assure the continued viability of such population. For the purposes of this section, the term "temporarily" shall mean only so long as reasonably necessary to achieve the purposes of the closure.

(2) If the Superintendent determines that an emergency situation exists and that extraordinary measures must be taken for public safety or to assure the continued viability of a particular plant population, the Superintendent may immediately close all or any portion of a park area to the subsistence uses of such population. Such emergency closure shall be effective when made, shall be for a period not to exceed sixty (60) days, and may not subsequently be extended unless the Superintendent establishes, after notice and public hearing in the affected vicinity and other locations as appropriate, that such closure should be extended.

(3) Notice of administrative actions taken pursuant to this section, and the reasons justifying such actions, shall be published in at least one newspaper of general circulation within the State and at least one local newspaper if available, and information about such actions and reasons also shall be made available for broadcast on local radio stations in a manner reasonably calculated to inform local rural residents in the affected vicinity. All closures shall be designated on a map which shall be available for public inspection at the office of the Superintendent of the affected park area and the post office or postal authority of every affected

community within or near the park area or by the posting of signs in the vicinity of the restrictions, or both.

§ 13.50 Closure to subsistence uses of fish and wildlife.

(a) Notwithstanding any other provision of this part, the Superintendent, after consultation with the State and adequate notice and public hearing in the affected vicinity and other locations as appropriate, may temporarily close all or any portion of a park area to subsistence uses of a particular fish or wildlife population only if necessary for reasons of public safety, administration, or to assure the continued viability of such population. For purposes of this section, the term "temporarily" shall mean only so long as reasonably necessary to achieve the purposes of the closure.

(b) If the Superintendent determines that an emergency situation exists and that extraordinary measures must be taken for public safety or to assure the continued viability of a particular fish or wildlife population, the Superintendent may immediately close all or any portion of a park area to the subsistence uses of such population. Such emergency closure shall be effective when made, shall be for a period not to exceed sixty (60) days, and may not subsequently be extended unless the Superintendent establishes, after notice and public hearing in the affected vicinity and other locations as appropriate, that such closure should be extended.

(c) Notice of administrative actions taken pursuant to this section, and the reasons justifying such actions, shall be published in at least one newspaper of general circulation within the State and in at least one local newspaper if available, and information about such actions and reasons also shall be made available for broadcast on local radio stations in a manner reasonably calculated to inform local rural residents in the affected vicinity. All closures shall be designated on a map which shall be available for public inspection at the office of the Superintendent of the affected park area and the post office or postal authority of every affected community within or near the park area, or by the posting of signs in the vicinity of the restrictions, or both.

§ 13.51 Application procedures for subsistence permits and aircraft exceptions.

(a) Any person applying for the subsistence permit required by § 13.44(a), or the exception to the prohibition on aircraft use provided by

§ 13.45(b)(2), shall submit his/her application to the Superintendent of the appropriate national park or monument. If the applicant is unable or does not wish to submit the application in written form, the Superintendent shall provide the applicant an opportunity to present the application orally and shall keep a record of such oral application. Each application must include (1) a statement which acknowledges that providing false information in support of the application is a violation of Section 1001 of Title 18 of the United States Code, and (2) additional statements or documentation which demonstrates that the applicant satisfies the criteria set forth in § 13.44(a) for a subsistence permit or § 13.45(b)(2) for the aircraft exception, as appropriate. Except in extraordinary cases for good cause shown, the Superintendent shall decide whether to grant or deny the application in a timely manner not to exceed forty-five (45) days following the receipt of the completed application. Should the Superintendent deny the application, he/she shall include in the decision a statement of the reasons for the denial and shall promptly forward a copy to the applicant.

(b) An applicant whose application has been denied by the Superintendent has the right to have his/her application reconsidered by the Alaska Regional Director by contacting the Regional Director within 180 days of the issuance of the denial. The Regional Director may extend the 180-day time limit to initiate a reconsideration for good cause shown by the applicant. For purposes of reconsideration, the applicant shall present the following information:

(1) Any statement or documentation, in addition to that included in the initial application, which demonstrates that the applicant satisfies the criteria set forth in paragraph (a) of this section:

(2) The basis for the applicant's disagreement with the Superintendent's findings and conclusions; and

(3) Whether or not the applicant requests an informal hearing before the Regional Director.

(c) The Regional Director shall provide a hearing if requested by the applicant. After consideration of the written materials and oral hearing, if any, and within a reasonable period of time, the Regional Director shall affirm, reverse, or modify the denial of the Superintendent and shall set forth in writing the basis for the decision. A copy of the decision shall be forwarded promptly to the applicant and shall constitute final agency action.

Subpart C—Special Regulations— Specific Park Areas in Alaska

§ 13.71 Noatak National Preserve
[Reserved]

§ 1.5 Closures and public use limits.

(a) Consistent with applicable legislation and Federal administrative policies, and based upon a determination that such action is necessary for the maintenance of public health and safety, protection of environmental or scenic values, protection of natural or cultural resources, aid to scientific research, implementation of management responsibilities, equitable allocation and use of facilities, or the avoidance of conflict among visitor use activities, the superintendent may:

(1) Establish, for all or a portion of a park area, a reasonable schedule of visiting hours, impose public use limits, or close all or a portion of a park area to all public use or to a specific use or activity.

(2) Designate areas for a specific use or activity, or impose conditions or restrictions on a use or activity.

(3) Terminate a restriction, limit, closure, designation, condition, or visiting hour restriction imposed under paragraph (a)(1) or (2) of this section.

(b) Except in emergency situations, a closure, designation, use or activity restriction or condition, or the termination or relaxation of such, which is of a nature, magnitude and duration that will result in a significant alteration in the public use pattern of the park area, adversely affect the park's natural, aesthetic, scenic or cultural values, require a long-term or significant modification in the resource management objectives of the unit, or is of a highly controversial nature, shall be published as rulemaking in the **FEDERAL REGISTER**.

(c) Except in emergency situations, prior to implementing or terminating a restriction, condition, public use limit or closure, the superintendent shall prepare a written determination justifying the action. That determination shall set forth the reason(s) the restriction, condition, public use limit or closure authorized by paragraph (a) has been established, and an explanation of why less restrictive measures will not suffice, or in the case of a termination of a restriction, condition, public use limit or closure previously established under paragraph (a), a determination as to why the restriction is no longer necessary and a finding that the termination will not adversely impact park resources. This determination shall be available to the public upon request.

(d) To implement a public use limit, the superintendent may establish a permit, registration, or reservation system. Permits shall be issued in accordance with the criteria and procedures of § 1.6 of this chapter.

(e) Except in emergency situations, the public will be informed of closures, designations, and use or activity restrictions or conditions, visiting hours, public use limits, public use limit procedures, and the termination or relaxation of such, in accordance with § 1.7 of this chapter.

(f) Violating a closure, designation, use or activity restriction or condition, schedule of visiting hours, or public use limit is prohibited. When a permit is used to implement a public use limit, violation of the terms and conditions of a permit is prohibited and may result in the suspension or revocation of the permit.

APPENDIX B: MANAGEMENT OBJECTIVES

The following management objectives appeared in Noatak National Preserve's Statement for Management. The objectives are subject to periodic revision.

Administration

Provide necessary visitor services and perpetuate the resources of the preserve by employing adequate staff.

Prepare and keep current planning documents to guide management in making appropriate administrative decisions.

Encourage and provide opportunities for scientific research.

Conduct, sponsor, and encourage continuing data gathering focused on natural and cultural resources and visitor uses so that management has sufficient information on which to base decisions.

Provide ranger stations for visitor contact points and information services, and for basing patrol operations, conducting cooperative search-and-rescue missions, and implementing resources management programs.

Streamline managerial responsibilities by establishing management units or zones.

Utilize through employment the knowledge and skills of local persons and those capable of meeting the physical demands of working under arctic environmental conditions.

Administer in conjunction with other land managers in the area a regional fire management plan designed to protect human lives, preserve resources, and private property and to allow natural fires to fulfill their roles in the evolving ecosystem of the preserve.

Assess the oil, gas, and other mineral potential in the preserve according to the provisions of ANILCA.

Natural Resources

As mandated by ANILCA, maintain the environmental integrity of the Noatak River and adjacent lands within the preserve in such a manner as to ensure the continuation of geological and biological resources unimpaired by adverse human activity.

Collect information and data about the population cycles of wildlife species and their habitats so that managers have a sound basis for making decisions.

Regulate consumptive uses of natural resources and maintain habitats for healthy populations of wildlife through cooperative agreements with Alaska Department of Fish and Game and the U.S. Fish and Wildlife Service.

Encourage all users of preserve resources to understand the positive roles they can play to maintain natural balances in the preserve's ecosystem.

Encourage and assist private landowners and users of preserve resources to perpetuate the natural features of the area.

Cultural Resources

For the purposes of the protection of cultural resources identify and evaluate the preserve's prehistorical and historical resources in a manner consistent with NPS policy and legislative and executive requirements.

Devise plans so that research, subsistence, and recreational activities do not impair cultural resources or their settings.

Assemble cultural resource information--including oral and written materials--to be used in interpretive programs for visitors.

Encourage and assist private landowners within the preserve and individuals, groups, and native corporations in surrounding communities to protect and preserve cultural resources and the cultural heritage of the region.

Prepare and keep current a scope of collections statement to serve as a guide for the staff of the preserve to acquire cultural and natural museum objects.

Encourage and support research activities by professionally qualified individuals, groups, and institutions for the identification and evaluation of cultural resources within the preserve and region.

Compile information on the cultural patterns, including current subsistence activities of local rural residents in the region.

Visitor Use and Interpretation

Provide visitors with services, materials, and programs to enhance their knowledge of preserve resources and their opportunities for enjoyable, educational, and safe visits; and additional opportunities to explore, discover, and experience resources on their own.

Promote public awareness of and appreciation for the scientific values of an exceptional wilderness environment, one designated as an outstanding ecosystem in the United Nation's Man and the Biosphere program.

Develop procedures for minimizing conflicts between subsistence and recreational users, particularly in areas that border native allotments.

Encourage and provide information and technical assistance to local business to provide visitors with necessary services.

Provide information about enjoyable, educational, and safe ways for visitors to see and experience the natural and cultural resources without adversely impacting them, and without disrupting subsistence and other cultural activities among local residents.

Visitor Protection and Safety

Provide materials and present programs to inform visitors about the inherent dangers in this arctic environment.

Employ and maintain a staff of well-trained, well-equipped field personnel to operate effectively in emergencies in both matters of search-and-rescue and law enforcement.

Devise procedures for providing visitors with such safety measures as reports of weather and other conditions (particularly water-related hazards), information about visitor contact points and possible shelters, and emergency message systems.

Develop and maintain cooperative agreements with the Alaska State Troopers, the Air Force Rescue Coordination Center, the National Guard at Kotzebue, and qualified groups or individuals for the purpose of establishing and maintaining procedures to prevent injuries to visitors.

Development of Facilities

Facilitate management and operations and provide for visitor services by developing, when necessary, public contact points and/or ranger stations.

Undertake development projects harmonious with the natural and cultural setting and employing equipment and materials that conserve energy and other resources and protect the environment.

Determine the desirability and need for constructing and maintaining primitive campsites, primitive shelters, and access points.

Elicit the cooperation of private landowners in the preserve so that any construction or development they may pursue recognizes and respects the natural and cultural integrity of the preserve and the needs of visitors. Encourage, where possible, development of visitor accommodations and bases of operations outside rather than inside the preserve boundary.

Concessions

Identify the levels and types of commercial visitor services necessary and appropriate for the area. Negotiate concessions contracts, permits, and licenses in accordance with section 1307 of ANILCA, and PL 89-249 (Concessions Policy Act).

Establish programs to collect data on visitor numbers and needs and make this information available to potential concessioners so that accommodations and services are the results of visitor needs and are compatible with proper management of preserve resources.

Cooperative Planning

Develop cooperative management programs with managers of adjoining lands and waters to protect and perpetuate viable populations of wildlife species, biological and geological processes, and cultural resources; develop essential services for the protection of human life and the resources of the area; and promote complementary uses of adjacent lands and waters.

Prepare and maintain cooperative agreements with native groups and corporations, special interest groups, local governments, and state and federal agencies in cultural and natural sciences research and programs.

Establish working agreements with private interests, local governments, and state and federal agencies for the purpose of developing feasible community and regional plans and for disseminating information to the public; involve local native residents and native organizations to inform visitors about native culture.

Establish and maintain with the state of Alaska cooperative agreements concerning navigable waters and associated lands so as to prevent adverse human activities from impairing preserve resources.

APPENDIX C: NPS/ADF&G MEMORANDUM OF UNDERSTANDING

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MASTER MEMORANDUM OF UNDERSTANDING
BETWEEN
THE ALASKA DEPARTMENT OF FISH AND GAME
JUNEAU, ALASKA
AND
THE U.S. NATIONAL PARK SERVICE
DEPARTMENT OF THE INTERIOR
ANCHORAGE, ALASKA

This Master Memorandum of Understanding between the State of Alaska, Department of Fish and Game, hereinafter referred to as the Department and the U.S. Department of the Interior, National Park Service, hereinafter referred to as the Service, reflects the general policy guidelines within which the two agencies agree to operate.

WHEREAS, the Department, under the Constitution, laws, and regulations of the State of Alaska, is responsible for the management, protection, maintenance, enhancement, rehabilitation, and extension of the fish and wildlife resources of the State on the sustained yield principle, subject to preferences among beneficial uses; and

WHEREAS, the Service, by authority of the Constitution, laws of Congress, executive orders, and regulations of the U.S. Department of the Interior is responsible for the management of Service lands in Alaska and the conservation of resources on these lands, including conservation of healthy populations of fish and wildlife within National Preserves and natural and healthy populations within National Parks and Monuments; and

WHEREAS, the Department and the Service share a mutual concern for fish and wildlife resources and their habitats and desire to develop and maintain a cooperative relationship which will be in the best interests of both parties, the fish and wildlife resources and their habitats, and produce the greatest public benefit; and

WHEREAS, the Alaska National Interest Lands Conservation Act (ANILCA) and subsequent implementing Federal regulations recognize that the resources and uses of Service lands in Alaska are substantially different than those of similar lands in other states and mandate continued subsistence uses in designated National Parks, plus sport hunting and fishing, subsistence, and trapping uses in National Preserves under applicable State and Federal laws and regulations; and

WHEREAS, the Department and the Service recognize the increasing need to coordinate resource planning and policy development;

NOW, THEREFORE, the parties hereto do hereby agree as follows:

(copy)

THE DEPARTMENT OF FISH AND GAME AGREES:

1. To recognize the Service's responsibility to conserve fish and wildlife and their habitat and regulate the human use on Service lands in Alaska, in accordance with the National Park Service Organic Act, ANILCA, and other applicable laws.
2. To manage fish and resident wildlife populations in their natural species diversity on Service lands, recognizing that nonconsumptive use and appreciation by the visiting public is a primary use and appreciation by the visiting public is a primary consideration.
3. To consult with the Regional Director or his representative in a timely manner and comply with applicable Federal laws and regulations before embarking on management activities on Service lands.
4. To act as the primary agency responsible for management of subsistence uses of fish and wildlife on State and Service lands, pursuant to applicable State and Federal laws.
5. To recognize that National Park areas were established, in part, to "assure continuation of the natural process of biological succession" and "to maintain the environmental integrity of the natural features found in them."

THE NATIONAL PARK SERVICE AGREES:

1. To recognize the Department as the agency with the primary responsibility to manage fish and resident wildlife within the State of Alaska.
2. To recognize the right of the Department to enter onto Service lands after timely notification to conduct routine management activities which do not involve construction, disturbance to the land, or alterations of ecosystems.
3. To manage the fish and wildlife habitat on Service lands so as to ensure conservation of fish and wildlife populations and their habitats in their natural diversity.
4. To cooperate with the Department in planning for management activities on Service lands which require permits, environmental assessments, compatibility assessments, or similar regulatory documents by responding to the Department in a timely manner.
5. To consider carefully the impact on the State of Alaska of proposed treaties or international agreements relating to fish and wildlife resources which could diminish the jurisdictional authority of the State, and to consult freely with the State when such treaties or agreements have a significant impact on the State.

(copy)

6. To review Service policies in consultation with the Department to determine if modified or special policies are needed for Alaska.
7. To adopt Park and Preserve management plans whose provisions are in substantial agreement with the Department's fish and wildlife management plans, unless such plans are determined formally to be incompatible with the purposes for which the respective Parks and Preserves were established.
8. To utilize the State's regulatory process to the maximum extent allowed by Federal law in developing new or modifying existing Federal regulations or proposing changes in existing State regulations governing or affecting the taking of fish and wildlife on Service lands in Alaska.
9. To recognize the Department as the primary agency responsible for policy development and management direction relating to subsistence uses of fish and wildlife resources on State and Service lands, pursuant to applicable State and Federal laws.
10. To consult and cooperate with the Department in the design and conduct of Service research or management studies pertaining to fish and wildlife.
11. To consult with the Department prior to entering into any cooperative land management agreements.
12. To allow under special use permit the erection and maintenance of facilities or structures needed to further fish and wildlife management activities of the Department on Service lands, provided their intended use is not in conflict with the purposes for which affected Parks or Preserves were established.

THE DEPARTMENT OF FISH AND GAME AND THE NATIONAL PARK SERVICE MUTUALLY AGREE:

1. To coordinate planning for management of fish and wildlife resources on Service lands so that conflicts arising from differing legal mandates, objectives, and policies either do not arise or are minimized.
2. To consult with each other when developing policy, legislation, and regulations which affect the attainment of wildlife resource management goals and objectives of the other agency.
3. To provide to each other upon request fish and wildlife data, information, and recommendations for consideration in the formulation of policies, plans, and management programs regarding fish and wildlife resources on Service lands.
4. To recognize that the taking of fish and wildlife by hunting, trapping, or fishing on certain Service lands in Alaska is authorized in accordance with applicable State and Federal law unless State regulations are found to be incompatible with documented Park or Preserve goals, objectives or management plans.

(copy)

5. To recognize for maintenance, rehabilitation, and enhancement purposes, that under extraordinary circumstances the manipulation of habitat or animal populations may be an important tool of fish and wildlife management to be used cooperatively on Service lands and waters in Alaska by the Service or the Department when judged by the Service, on a case by case basis, to be consistent with applicable law and Park Service policy.
6. That implementation by the Secretary of the Interior of subsistence program recommendations developed by Park and Park Monument Subsistence Resource Commissions pursuant to ANILCA Section 808(b) will take into account existing State regulations and will use the State's regulatory process as the primary means of developing Park subsistence use regulations.
7. To neither make, nor sanction any introduction or transplant any fish or wildlife species on Service lands without first consulting with the other party and complying with applicable Federal and State laws and regulations.
8. To cooperate in the development of fire management plans which may include establishment of priorities for the control of wildfires and use of prescribed fires.
9. To consult on studies for additional wilderness designations and in development of regulations for management of wilderness areas on Service lands.
10. To resolve, at field office levels, all disagreements pertaining to the cooperative work of the two agencies which arise in the field and to refer all matters of disagreement that cannot be resolved at equivalent field levels to the Regional Director and to the Commissioner for resolution before either agency expresses its position in public.
11. To meet annually to discuss matters relating to the management of fish and wildlife resources on, or affected by, Service lands.
12. To develop such supplemental memoranda of understanding between the Commissioner and the Regional Director as may be required to implement the policies contained herein.
13. That the Master Memorandum of Understanding is subject to the availability of appropriated State and Federal funds.
14. That this Master Memorandum of Understanding establishes procedural guidelines by which the parties shall cooperate, but does not create legally enforceable obligations or rights.
15. That this Master Memorandum of Understanding shall become effective when signed by the Commissioner of the Alaska Department of Fish and Game and the Alaska Regional Director of the National Park Service and shall continue in force until terminated by either party by providing notice in writing 120 days in advance of the intended date of termination.

(copy)

16. That amendments to this Master Memorandum of Understanding may be proposed by either party and shall become effective upon approval by both parties.

STATE OF ALASKA
Department of Fish and Game

U.S. DEPARTMENT OF THE INTERIOR
National Park Service

By /s/ Ronald O. Skoog
Ronald O. Skoog
Commissioner

By John E. Cook
John E. Cook
Regional Director, Alaska

Date 14 October 1982

Date October 5, 1982

APPENDIX D: COMPLIANCE WITH OTHER LAWS, POLICIES, AND EXECUTIVE ORDERS

This section provides a reference to the applicable laws, executive orders, and policies that this planning project is required to address or comply with. In many cases compliance was also discussed in the "Environmental Consequences" section of the Draft General Management Plan. The information is repeated here to provide a comprehensive compliance discussion. Detailed discussions of the federal regulations for National Park Service units in Alaska are included in appendix A.

Natural Environment

Clean Air Act, Clean Water Act: None of the proposed actions would affect air or water quality within the preserve. All National Park Service facilities would meet or exceed standards and regulations for proper waste disposal.

Rivers and Harbors Act: Permits from the U.S. Army Corps of Engineers for work in navigable waters of the United States would be obtained.

Executive Orders 11988 (Floodplain Management) and 11990 (Protection of Wetlands): Because no floodplain mapping exists for the preserve, the National Park Service would assume worst-case conditions for placement of facilities. Development of new facilities would be preceded by site-specific analyses. No proposal would affect wetlands within the preserve.

Since there is little or no human habitation along the rivers in the preserve, the Corps of Engineers does not consider floodplain mapping within the preserve a high priority in Alaska.

Most of the visitor use of the preserve occurs within floodplains. Because of the size of the drainages where use occurs, the potential for flash flooding (ie., the rivers rising suddenly in a matter of hours because of rainstorms) during the visitor use season is considered moderate. Bush camping in these areas is a customary and traditional activity. The flood danger is not considered a high hazard; however, visitors need to be aware of the potential. Visitors who may be unfamiliar with river dynamics will be informed of climatic conditions that could cause water levels to rise and what actions to take if this occurs.

Bush camping involves no facilities and has no potential for effects on floodplains. It is therefore exempt from compliance with the National Park Service "Floodplain Management and Wetland Protection Guidelines."

The historic and potentially historic structures along rivers within the preserve will be assessed for their potential for flooding and in general will be managed to ensure their on-site preservation. This is in keeping with NPS guidelines and has no potential for adverse effects on floodplains.

Prime and Unique Agricultural Lands: No arable lands have been identified within the preserve.

Safe Drinking Water Act: The plan does not propose to provide any public drinking water within the preserve.

Endangered Species Act: Pursuant to Section 7 of the Endangered Species Act, the U.S. Fish and Wildlife Service was contacted in March 1984 for a list of threatened and endangered plant and animal species which might occur within the preserve. In their response of March 28, 1984, the Fish and Wildlife Service stated that records indicate that Arctic peregrine falcons nested within the Preserve at one time; however, no recent nesting has been documented. One candidate plant species, Oxytropis kokrinensis is probably present within the preserve.

Since no threatened or endangered species were identified as occurring within the area, no further consultation with the U.S. Fish and Wildlife Service is required under Section 7.

Protection of Fish and Game and Waters Important to Anadromous Fish (Alaska State Statutes): Before undertaking any development or action that could have an effect on spawning and rearing habitat for anadromous fish in designated streams, the National Park Service would request a Title 16 permit from the Alaska Department of Fish and Game. No such action is proposed in this plan.

Alaska Hunting, Trapping, and Fishing Regulations: All of these uses of the preserve, whether for sport or subsistence purposes, are subject to established laws. The National Park Service will ask the state for concurrent jurisdiction to assist in enforcing these laws within the preserve.

Alaska Coastal Management Program: A consistency determination has been prepared pursuant to the federal Coastal Zone Management Act of 1972, as amended, and the plan is consistent with the standards of the Alaska Coastal Management Act (ACMP) of May 1977 (see appendix E). The consistency determination was reviewed by the state of Alaska during the summer of 1985, and notification that the plan is consistent with program's standards was received from the Office of the Governor in a letter dated August 30, 1985. Compliance with the ACMP pursuant to Section 307 of the federal Coastal Zone Management Act of 1972, as amended, is thus assumed.

Cultural Resources

Antiquities Act, Museum Act, Historic Sites Act, National Historic Preservation Act, Archeological Resources Protection Act: All actions will be in full compliance with appropriate cultural resource laws. All proposals and activities affecting or relating to cultural resources will be developed and executed with the active participation of professional historians, archeologists, anthropologists, and historical architects, in accordance with NPS "Management Policies" and "Cultural Resource Management Guidelines" (National Park Service-28). No undertaking that would result in the destruction or loss of known significant cultural resources is proposed in this plan.

In accordance with the September 1981 amendment to the 1979 programmatic memorandum of agreement between the National Park Service, the Advisory Council on Historic Preservation, and the National Council of State Historic Preservation Officers, the National Park Service has requested the advice and consultation of the Advisory Council and the Alaska historic preservation officer during the preparation of this plan. A meeting was held in Anchorage in April and November 1984 with the Alaska historic preservation office to discuss coordination and consultation procedures for this plan. The Advisory Council was provided a copy of the task directive for this plan. The advice and consultation of these offices will continue to be requested as the plan progresses. The council and the state historic preservation officer have received copies of the draft plan for comment, and will be invited to attend all future public meetings.

On April 12, 1985, the National Park Service provided copies of the Noatak Draft General Management Plan/Environmental Assessment to the Advisory Council on Historic Preservation (ACHP) for their review and comment. On September 19, 1985, the regional director was notified that the document does not qualify for inclusion under the programmatic memorandum of agreement (PMOA) between the ACHP, the Park Service and the National Conference of State Historic Preservation Officers. The GMP did not present cultural information in sufficient scope and detail to allow for substantive ACHP review and Section 106 compliance under the PMOA. Therefore, pursuant to Section 106 of the National Historic Preservation Act, as amended in 1980, and until more specific planning documents are developed, the National Park Service will continue to consult with the Alaska State Historic Preservation Officer and the ACHP on a case-by-case basis prior to implementing any action under the GMP that may affect cultural resources.

1982 National Park Service Native American Relationships Policy: A thorough effort has been made to identify all native corporations and local native American groups and individuals who would be interested in participating in this planning effort and who have traditional ties with the preserve. The planning team has met with representatives of these groups at various stages of the plan's development. These individuals and groups have been placed on the mailing list and will continue to be consulted, invited to all public meetings, and sent copies of all public information documents for review and comment.

Socioeconomic Environment

Concessions Policy Act: If the level of use within the preserve increases to the point where business licensees are replaced by concessioners, the concession contracts would be issued in accordance with this act.

Architectural Barriers Act: All public facilities both inside and outside the preserve will be accessible by the handicapped to the extent possible.

APPENDIX E:
CONSISTENCY DETERMINATION FOR ALASKA COASTAL ZONE MANAGEMENT PROGRAM

Section 307(c) of the Coastal Zone Management Act of 1972 as amended (PL 92-583), states that "each federal agency conducting or supporting activities directly affecting the coastal zone shall conduct or support those activities in a manner which is, to the maximum extent practicable, consistent with approved state coastal management programs."

The Alaska Coastal Management Act of 1977, as amended, and the subsequent Alaska Coastal Management Program (ACMP) and Final Environmental Impact Statement of 1979 set forth policy guidelines and standards to be used for review of projects. The NANA Coastal Resource Service Area is preparing a district program, but the program has not been approved by the state or the U.S. Department of Commerce. Therefore, the standards established by the state of Alaska are applicable to Noatak National Preserve.

The ACMP identifies 12 primary categories that are to be used in consistency evaluations. The basis of the following consistency determination is the environmental assessment that accompanies the Draft General Management Plan (GMP) for the preserve. The highlights of this assessment are organized in the format of the ACMP standards in the following consistency determination. This determination considers not only the elements of the proposed plan, but also the elements of alternative proposals in the draft plan that relate to coastal land and water uses.

The categories in the ACMP which are applicable to this plan are as follows:

Coastal development	*
Geophysical hazard areas	*
Recreation	*
Energy facilities	*
Transportation and utilities	*
Fish and seafood processing	*
Timber harvest and processing	*
Mining and mineral processing	*
Subsistence	*
Habitats	*
Air, land, and water quality	*
Historic, prehistoric, and archeological resources	*

* Applicable

The following matrix evaluates the consistency of the GMP alternatives with the requirements of each of the applicable categories identified.

CONSISTENCY DETERMINATION FOR ALASKA COASTAL MANAGEMENT PROGRAM

<u>ACMP Section</u>	<u>Policy</u>	<u>Evaluation of Preferred and Other Alternatives</u>	<u>Consistency</u>
6 AAC 80.040 Coastal Development	<p>(a) In planning for and approving development in coastal areas, districts and state agencies shall give, in the following order, priority to:</p> <ol style="list-style-type: none"> 1) water-dependent uses and activities; 2) water-related uses and activities; 3) uses and activities which are neither water-dependent nor water-related for which there is no feasible and prudent inland alternative to meet the public need for the use or activity. <p>(b) The placement of structures and the discharge of dredged or fill material into coastal water must, at a minimum, comply with CFR, Title 33, Parts 320-323, July 19,1977</p>	<p>(a) Both of the alternatives emphasize nondevelopment uses of the preserve (e.g. subsistence, dispersed recreation, research etc.) Most of these activities are water related and take place within a two mile corridor along the Noatak River and its major tributaries. In both alternatives the administrative site at the confluence of the Kelly River would be maintained. In the proposed plan, potentially two small-scale administrative facilities would also be developed in the upper Noatak basin.</p> <p>(b) Neither of the alternatives propose discharging any dredged or fill material into coastal waters.</p>	Consistent
6 AAC 80.050 Geophysical Hazard Areas	<p>(a) Districts and state agencies shall identify known geophysical hazard areas and areas of high development potential in which there is a substantial possibility that geophysical hazards may occur.</p>	Neither of the alternatives propose developments in any known geophysical hazard area.	Consistent

	(b) Development in areas identified under (a) of this section may not be approved by the appropriate state or local authority until siting, design, and construction measures for minimizing property damage and protecting against loss of life have been provided.	Neither alternative proposed any development in (a).	Consistent
6 AAC 80.060 Recreation	<p>(a) Districts shall designate areas for recreational use. Criteria for designation of areas of recreational use are:</p> <p>(1) the area receives significant use by persons engaging in recreational pursuits or is a major tourist destination; or</p> <p>(2) the area has potential for high quality recreational use because of physical, biological, or cultural features.</p> <p>(b) District and state agencies shall give high priority to maintaining and, where appropriate, increasing public access to coastal water.</p>	<p>(a) Both of the alternatives recognize and would protect the preserve's potential for high quality recreational opportunities related to its physical, biological, and cultural features.</p> <p>(b) The preserve is not adjacent to any coastal waters, but does guarantee access to most of the Noatak River and its tributaries upstream from the village of Noatak.</p>	Consistent
6 AAC 80.120 Subsistence	<p>(a) Districts and state agencies shall recognize and assure opportunities for subsistence usage of coastal areas and resources.</p> <p>(b) Districts shall identify areas which subsistence is the dominant use of coastal resources.</p>	<p>See appendix G of the Draft General Management Plan: "ANILCA Section 810 Subsistence Evaluation." This evaluation finds that neither of the alternatives would result in a significant restriction of subsistence uses within the preserve.</p>	Consistent

(c) Districts may, after consultation with appropriate state agencies, native corporations, and any other persons or groups, designate areas identified under (b) of this section as subsistence uses and activities have priority over all nonsubsistence uses and activities.

(d) Before a potentially conflicting use of activities may be authorized with areas designated under (c) of this section, a study of the possible adverse impacts of the proposed potentially conflicting use or activity upon subsistence usage must be conducted and appropriate safeguards to assure subsistence usage must be provided.

(e) Districts sharing migratory fish and game resources must submit compatible plans for habitat management.

60 AAC 80.130
Habitats

(a) Habitats in the coastal area which are subject to the Alaska coastal management program include:
(1) offshore areas,
(2) estuaries,
(3) wetlands and tidelands,
(4) rocky islands and seacliffs,
(5) barrier islands and lagoons,
(6) exposed high energy coasts,
(7) rivers, streams, and lakes, and
(8) important upland habitat.

Both of the alternatives would serve to maintain the integrity and biological health of coastal habitats by promoting research and monitoring programs.

Consistent

(b) The habitats contained in (a) of this section must be managed so as to maintain or enhance the biological, physical, and chemical characteristics of the habitat which contribute to its capacity to support living resources.

6 AAC 80.140 Air, Land, and Water Quality	The statutes pertaining to and the regulations and procedures of the Alaska Department of Environmental Conservation with respect to the protection of air, land, and water quality are incorporated into the ACMP.	All requirements would be met under both of the alternatives. Development of any facilities would require compliance with applicable federal and state laws and regulations regarding air, land, and water quality.	Consistent
6 AC 80.150 Historic, Prehistoric, and Archeo- logical Resources	Districts and appropriate state agencies shall identify areas of the coast which are important to the study, understanding, or illustration of national, state, or local history or prehistory.	In both alternatives, the National Park Service would survey, evaluate, and protect archeological and historical sites within the preserve as mandated by laws and regulations.	Consistent

DETERMINATION

The Draft General Management Plan for Noatak National Preserve has been evaluated for consistency with the standards of the Alaska Coastal Management Program. It has been determined by the National Park Service that the proposed plan conforms with all the requirements of the Alaska Coastal Management Program. The state of Alaska concurred on August 30, 1985, in their comments on the draft plan.

APPENDIX F: ANILCA SECTION 810
SUBSISTENCE EVALUATION INTRODUCTION
NOATAK NATIONAL PRESERVE

Section 810(a) of ANILCA states:

In determining whether to withdraw, reserve, lease, or otherwise permit the use, occupancy, or disposition of public lands under any provision of law authorizing such actions, the head of the Federal agency having primary jurisdiction over such lands or his designee shall evaluate the effect of such use, occupancy, or disposition on subsistence uses and needs, the availability of other lands for the purposes sought to be achieved, and other alternatives which would reduce or eliminate the use, occupancy or disposition of public lands needed for subsistence purposes. No such withdrawal, reservation, lease, permit, or other use, occupancy or disposition of such lands which would significantly restrict subsistence uses shall be effected until the head of such Federal agency--

(1) gives notice to the appropriate State agency and the appropriate local committees and regional councils established pursuant to section 805;

(2) gives notice of, and holds, a hearing in the vicinity of the area involved; and

(3) determines that (A) such a significant restriction of subsistence uses is necessary, consistent with sound management principles for the utilization of the public lands, (B) the proposed activity will involve the minimal amount of public lands necessary to accomplish the purposes of such use, occupancy, or other disposition, and (C) reasonable steps will be taken to minimize adverse impacts upon subsistence uses and resources resulting from such actions.

The purposes for which the preserve was established and shall be managed are presented in Title II of ANILCA.

In addition, components of the national wild and scenic rivers system and the national wilderness preservation system are to be administered pursuant to the Wild and Scenic Rivers Act and the Wilderness Act, respectively, amended by ANILCA (see "River Management" and "Wilderness Management" sections elsewhere in this document for a discussion of specific management provisions).

Subsistence uses are to be permitted in conservation system units in accordance with Title VIII of ANILCA. Section 102 defines the term "conservation system unit" to include any national park system unit in Alaska, national wild and scenic rivers system, and national wilderness preservation system.

EVALUATION CRITERIA

The potential for significant restriction must be evaluated for effects of the proposed action and alternatives upon "subsistence uses and needs, the availability of other lands for the purposes sought to be achieved and other alternatives which would reduce or eliminate the use." Restriction on subsistence use would be significant if there were large reductions in the abundance of harvestable resources, major redistributions of those resources, substantial interference with harvester access to active subsistence sites, or a major increase in nonrural resident hunting.

After evaluating the following criteria relative to the area, an evaluation of significance of the proposed general management plan to subsistence activities can be made.

1. Whether there is likely to be a reduction in subsistence uses because of
 - (a) factors such as direct impacts on the resource, adverse impacts on habitat, or increased competition from nonrural harvesters.
 - (b) changes in availability of resources caused by an alteration in their distribution, migration, or location.
 - (c) limitations on the access to harvestable resources, such as by physical or legal barriers.
2. The availability of other lands that could be used for the proposed action, including an analysis of existing subsistence uses of those lands; and
3. Alternatives that would reduce or eliminate the proposed action from lands needed for subsistence purposes.

PROPOSED ACTION ON FEDERAL LANDS

The National Park Service is proposing to implement a general management plan for Noatak National Preserve that would guide management of the area for the next five to 10 years. The plan presents proposed approaches to management of natural resources, cultural resources, visitor use and development, land management, and administration. The alternatives include (1) the preferred alternative and (2) continuation of existing management (alternative 2).

AFFECTED ENVIRONMENT

As described in the "Subsistence" section of chapter II, the preserve is part of a much broader subsistence use area used by local residents. Although a few activities are relatively specific to the preserve, most subsistence pursuits flow across the landscape without regard for political boundaries. Subsistence activities within the preserve are strongly influenced by the presence of the Noatak River and its tributaries. Fish and waterfowl are found in or on the water itself, and moose, ptarmigan, hare, lynx, and other wildlife species are drawn to the edibles near the edge of streams. During the snow-free months, it is estimated that 90 percent of the subsistence

activities occurring within the preserve takes place within two miles of either side of the main Noatak and the navigable stretches of the larger tributaries. During the winter months the upper stretches of the tributaries are available for travel, so uses are more widespread. However, the great majority of subsistence activities within the preserve continue to occur within a relatively narrow band bordering such streams.

EVALUATION OF ALTERNATIVES

In the determination of potential restrictions to existing subsistence activities, the evaluation criteria were analyzed relative to existing subsistence resources that could be impacted. The Draft General Management Plan/Environmental Assessment describes the total range of potential impacts that may occur. This section discusses any possible restrictions to subsistence activities.

The Potential to Reduce Populations, Adversely Impact Habitat, or Increase Competition from Nonrural Harvesters

No significant declines in populations would result from implementation of either of the alternatives. Natural cycles in populations would continue. The National Park Service would not attempt to artificially maintain populations within the preserve.

Under alternative 2 in the draft plan, the possibility for adverse impacts to habitat is greater than under the preferred alternative because there would not be a comprehensive approach to researching and monitoring the preserve's resources including those habitats important to subsistence uses. Adverse impacts to habitat could go undetected until they reached a more serious or obvious stage. The likelihood of this happening is not considered significant in view of the minimal changes in resource conditions and uses expected over the next 10 years.

Alternative 1 (the preferred alternative) has the greater potential for increasing competition from nonrural harvesters. Even so, use of the preserve is not expected to increase significantly primarily because of the remoteness of the area and the cost of getting there. Under alternative 2, little information on the preserve as a recreation destination would be made available and then only upon specific request. Only minor (up to 10 percent) increases in recreational use would be expected over the next five to 10 years under either alternative.

Conclusion: Neither of the alternatives would result in a reduction in the population of any harvestable resource, adversely impact habitat, or significantly increase competition from nonrural harvesters.

Availability of Subsistence Resources. The distribution, migration patterns, and location of subsistence resources are expected to remain unchanged as is under both of the alternatives.

Conclusion: Neither of the alternatives would result in significant changes in the availability of resources caused by an alteration in their distribution, migration, or location.

Restriction of Access. Under both alternatives, access to the preserve for subsistence purposes is guaranteed by section 811 of ANILCA. Regulations implementing section 811 are already in place, and neither of the alternatives proposes changes in those regulations.

Conclusion: Neither of the alternatives would result in limitations on the access to harvestable resources.

Availability of Other Lands for the Proposed Action

There are no other lands available for this action because the preserve boundaries were established by Congress to achieve specific purposes. The proposed plan is consistent with the mandates of ANILCA, including Title VIII, and the National Park Service organic act.

Alternatives

No alternatives that would reduce or eliminate the proposed actions from lands needed for subsistence purposes were identified because preparation of a general management plan is required by ANILCA and the proposed plan is consistent with provisions of ANILCA related to subsistence.

CONSULTATION AND COORDINATION

The Alaska Department of Fish and Game and the NANA Coastal Resources Service Area Board were consulted throughout preparation of this plan. Further information is contained in the "Consultation and Coordination" section of the draft plan.

FINDINGS

Based upon the above process and considering all the available information, this evaluation concludes that the proposed plan would not result in significant restrictions of subsistence uses within Noatak National Preserve.

APPENDIX G: COMPENDIUM OF DESIGNATIONS,
CLOSURES, REQUEST REQUIREMENTS, AND OTHER
RESTRICTIONS IMPOSED UNDER THE DISCRETIONARY
AUTHORITY OF THE SUPERINTENDENT

In accordance with regulations and the delegated authority provided in Title 36, Code of Federal Regulations, chapter 1, parts 1 through 7, and part 13 authorized by Title 16, United States Code, section 3, the following regulatory provisions are established for the proper management, protection, government and public use of the portions of northwest Alaska areas under the jurisdiction of the National Park Service. These areas include Cape Krusenstern National Monument, Noatak National Preserve, and Kobuk Valley National Park.

Unless otherwise stated, these regulatory provisions apply in addition to the requirements contained in 36 CFR, Chapter 1.

36 CFR 1.6 PERMITS

In compliance with 36 CFR, 1.7 the following is a compilation of activities requiring permits.

COLLECTING RESEARCH SPECIMENS

SPECIAL EVENTS

PUBLIC ASSEMBLIES AND MEETINGS

SALE AND DISTRIBUTION OF PRINTED MATTER

MEMORIALIZATION or SCATTERING OF HUMAN ASHES

BUSINESS OPERATIONS

COMMERCIAL PHOTOGRAPHY

SALVAGING, REMOVING, POSSESSING, or attempting to salvage, remove, or possess any downed aircraft or component parts thereof. 43 CFR 36.11(f)

HELICOPTER LANDINGS 43 CFR 36.11(f)

OFF-ROAD VEHICLE USE (other than snowmachines) except on the beaches of Cape Krusenstern National Monument and on RS 2477 routes during periods of adequate snow cover. 43 CFR 36.11(g)

ACCESS TO INHOLDINGS where access is not made by aircraft, snowmachine, motorboat or nonmotorized surface transportation. 43 CFR 36.10

TEMPORARY ACCESS TO STATE OR PRIVATE LANDS where access is not made by aircraft, snowmachine, motorboat or non-motorized surface transportation. 43 CFR 36.12

USE, REPAIR, OR CONSTRUCTION OF ANY CABIN ON NATIONAL PARK SERVICE LAND.
36 CFR 13.22

LEAVING ANY PERSONAL PROPERTY UNATTENDED FOR LONGER THAN 12 MONTHS. 36
CFR 13.22

SUBSISTENCE USE FOR PERSONS whose permanent home is outside a resident
zone. 36 CFR 13.22

USING AIRCRAFT FOR ACCESS to or from lands or waters within a national
park or monument for purposes of taking fish or wildlife for subsistence
purposes. 36 CFR 13.45

CUTTING AND NONCOMMERCIAL USE OF LIVE STANDING TIMBER greater than 3
inches in diameter by local rural residents. 36 CFR 13.49

36 CFR 2.1 PRESERVATION OF NATURAL, CULTURAL AND ARCHEOLOGICAL RESOURCES

(a)(1)(iv) SURFACE COLLECTION BY HAND (including hand-held gold pans)
for personal recreation, of rocks and minerals except silver, platinum,
gemstones, fossils, archeological, and historical resources is
permitted. 36 CFR 13.20(c), Antiquities Act, and 43 CFR Part 3-1214/4.

(a)(4) DEAD OR DOWNED WOOD AND DRIFTWOOD may be collected for fires. 36
CFR 13.20 (2) and (4).

LIVE STANDING TIMBER with a diameter of less than 3 inches at ground
height may be cut by local rural residents for noncommercial purposes.
36 CFR 13.49.

(c)(1) THE COLLECTING BY HAND FOR PERSONAL USE ONLY OF NATURAL PLANT
FOOD ITEMS (except threatened or endangered species), uninhabited
seashells and plant materials and minerals as are essential to the
conduct traditional ceremonies by native Americans is permitted. 36 CFR
13.20

NONCOMMERCIAL GATHERING BY LOCAL RURAL RESIDENTS OF PLANT MATERIAL FOR
SUBSISTENCE USES IS PERMITTED. 36 CFR 13.49

36 CFR 2.2 WILDLIFE PROTECTION

(a) and (b) SUBSISTENCE HUNTING AND TRAPPING by local rural residents
without using aircraft for access to and from Kobuk Valley National Park
and Cape Krusenstern National Monument is permitted in compliance with
applicable state and federal law (state laws have been incorporated as
federal regulation). 36 CFR 13.45, 13.48, and 13.21.

(a) and (b) HUNTING AND TRAPPING ARE PERMITTED IN NOATAK NATIONAL
PRESERVE in accordance with applicable state and federal law (state laws
have been incorporated as federal regulations). 36 CFR 13.21 (c)

(b) (3) THE ENGAGING IN TRAPPING ACTIVITIES AS THE EMPLOYEE OF ANOTHER PERSON IS PROHIBITED. 36 CFR 13.21 (c)

36 CFR 2.4 WEAPONS, TRAPS AND NETS

(a) FIREARMS MAY BE CARRIED IN ACCORDANCE WITH APPLICABLE STATE AND FEDERAL LAW. 36 CFR 13.19 (b)

TRAPS, BOWS AND OTHER IMPLEMENTS AUTHORIZED BY STATE AND FEDERAL LAW FOR THE TAKING OF FISH AND WILDLIFE may be carried within Noatak National Preserve only during those times when the taking of fish and wildlife is authorized by applicable law or regulation. 36 CFR 13.19 (c)

LOCAL RURAL RESIDENTS WHO ARE AUTHORIZED TO ENGAGE IN SUBSISTENCE USES MAY USE, POSSESS, OR CARRY TRAPS, NETS OR OTHER WEAPONS IN ACCORDANCE WITH APPLICABLE STATE AND FEDERAL LAWS IN ALL THREE AREAS. 36 CFR 13.19 (e)

36 CFR 2.13 FIRES

In all three northwest Alaska areas fires may be lit and maintained anywhere in compliance with applicable state and federal regulation.

36 CFR 2.15 PETS

PETS ARE PROHIBITED IN NATIONAL PARK SERVICE BUILDINGS AND TENTS. 36 CFR 2.15(a)(1)

NATIONAL PARK SERVICE EMPLOYEES RESIDING IN THE NORTHWEST ALASKA AREAS MAY NOT KEEP PETS. 36 CFR 2.15(e)

36 CFR 2.16 HORSES AND PACK ANIMALS

Designated pack animals are dogs in the northwest Alaska areas when used either to pull sleds or pack equipment directly on their backs.

36 CFR 2.17 AIRCRAFT AND AIR DELIVERY

ALL THREE NORTHWEST ALASKA AREAS ARE DESIGNATED OPEN FOR THE PURPOSE OF LANDING FIXED-WING AIRCRAFT ON LANDS AND WATERS. 43 CFR 36.11(f)

AIRCRAFT MAY NOT BE USED FOR ACCESS TO OR FROM LANDS OR WATERS WITHIN KOBUK VALLEY NATIONAL PARK OR CAPE KRUSENSTERN NATIONAL MONUMENT FOR THE PURPOSES OF TAKING FISH AND WILDLIFE FOR SUBSISTENCE USE. 43 CFR 36.11(f)

LANDING OF HELICOPTERS WITHOUT A PERMIT IS PROHIBITED. 43 CFR 36.11(f)

36 CFR 2.18 SNOWMOBILES

The use of snowmachines in compliance with applicable state and federal law is permitted throughout the northwest Alaska areas for travel and transportation, and for subsistence purposes.

36 CFR 2.21 SMOKING

SMOKING IS PROHIBITED IN THE HEADQUARTERS AND VISITOR CENTER, IN THE SHOP AND WAREHOUSE, AND IN THE TRANSIENT QUARTERS IN KOTZEBUE.

SMOKING IS PROHIBITED IN ALL NATIONAL PARK SERVICE TENTS AND CABINS IN THE THREE NORTHWEST ALASKA AREAS.

36 CFR 2.22 PROPERTY

LEAVING PERSONAL PROPERTY UNATTENDED FOR LONGER THAN 12 MONTHS WITHOUT A PERMIT IS PROHIBITED. 36 CFR 13.22(b) and (c)

36 CFR 2.52 SALE OR DISTRIBUTION OF PRINTED MATTER

The sale or distribution of printed matter is prohibited in the headquarters, visitor center, shop, warehouse, and transient quarters in Kotzebue and in the immediate vicinity of all ranger stations in all three northwest Alaska areas.

36 CFR 3.20 WATER SKIING

Waterskiing is prohibited.

36 CFR 3.21 SWIMMING

Swimming is permitted in all waters.

36 CFR 3.23 SCUBA AND SNORKELING

SCUBA diving and snorkeling are permitted.

43 CFR 36.11(d) MOTORBOATS

The use of motorboats is permitted on all waters of the northwest Alaska areas.

APPENDIX H-1

ESTIMATED ANNUAL (1985) OPERATING COSTS FOR
CAPE KRUSENSTERN NATIONAL MONUMENT, KOBUK VALLEY NATIONAL PARK, AND NOATAK
NATIONAL PRESERVE

	<u>(Proposed)</u>	<u>(Existing)</u>
<u>Personnel</u>		
(includes permanent & seasonal staff benefits, travel, over-time, etc.)	650,000	383,600
<u>Rent, Communication & Utilities</u>		
(NANA bldg., quonset hut, phones, etc.)	130,000(a)	61,300
<u>Services & Supplies</u>		
(OAS aircraft, other services, consummable supplies, etc.)	350,000	98,800
<u>Capitalized Equipment</u>	100,000(b)	27,400(b)
TOTAL	1,180,000	570,000

(a) - These costs can vary greatly--depending on whether buildings are leased or rented or owned by the federal government.

(b) - These figures do not include equipment replacement.

APPENDIX H-2

ESTIMATED DEVELOPMENT COSTS FOR NW AREA (NOATAK NATIONAL PRESERVE AND KOTZEBUE HEADQUARTERS OFFICE ONLY) ALTERNATIVE 1

The following are class C (gross) estimates, meaning they are based on costs of similar facilities built in Alaska. These estimates are valid through June 1985. It should be noted that these costs are estimated as if each construction project were to be done separately by private contractors through the standard NPS contract bidding process. This does not include the cost of land. Reductions in these estimates are possible if facilities could be packaged to produce a more economical product or if existing facilities were utilized.

All of the proposed developments in Kotzebue would be shared by the staff from the three northwest areas park units. In addition the Kotzebue based U.S. Fish and Wildlife Service staff might share the administrative offices, storage and shop space, and aircraft hanger, which would necessitate an increase in square footage in these estimates proportionate to the additional staff and equipment. The construction time frame is estimated as follows: 1986 for the first phase of housing, 1987-88 for ranger stations and 1989-95 for other facilities in Kotzebue.

1. ADMINISTRATIVE OFFICES - Kotzebue

This would include 3,000 square feet of office space for 13 permanent and between four and six seasonal employees, small library, secretary/receptionist area, map and slide storage, and lab facility including sinks, work surfaces and storage cabinets for botanical, archeological, paleontology, etc. examinations.

\$687,750

2. VISITOR CONTACT STATION - Kotzebue

The visitor contact station would include 1,500 square feet adjoining the administrative offices. It would include space for: exhibits for each park area and at least three or four topical exhibits; audiovisual room seating 30 people; sale of printed matter and local crafts; fabrication and storage of traveling exhibits; and storage of curatorial collections, exhibits, slide and film files, books and other items needed for the visitor center operation.

\$343,875

3. PARK HOUSING - Kotzebue

This would include one four-plex housing unit about 5,000 square feet. It would be located in the residential section of Kotzebue.

\$851,500

4. STORAGE AND SHOP SPACE - Kotzebue

Equipment and supplies would be stored in this facility (about 6,000 square feet) for use by all three park units. About one fifth of the total area would be for a shop for vehicle maintenance and other small park projects.

\$786,000

5. OFFICE/RESIDENCE - Noatak

This would be a residence/office combination facility of about 1,800 square feet in the village of Noatak where the Noatak District Ranger would live. The office space (600 square feet) would be shared with staff from Cape Krusenstern National Monument.

\$294,750

6. AIRCRAFT HANGER - Kotzebue

This facility would be next to a small lake in Kotzebue. The hanger would have 3,000 square feet and a loft and capacity to house three aircraft. A floatplane dock and ramp and a 4,000-square-foot paved aircraft parking tie down would be part of the facility.

\$550,200

7. RANGER STATIONS - within preserve

These would consist of a cabin about 20 x 20 feet with a propane stove, three bunks, shelving, table and chairs plus a cache at each site. The ranger stations would be near the mouths of the Kelly River and Makpik Creek, with the Kelly station having two cabins - one residence for two people and one for an office. An additional station might be built in the upper Noatak drainage if an existing cabin cannot be leased or acquired.

\$ 50,000 x 2 cabins =	\$100,000
\$ 7,000 x 2 caches =	\$ 14,000
	<u>\$114,000</u>

TOTAL DEVELOPMENT COSTS = \$3,628,075*

*\$3,547,325 of the total (items 1,2,3,4,6) would be shared between Cape Krusenstern National Monument and Kobuk Valley National Park budgets as presented in the draft general management plans for those areas. The Noatak office (\$294,750) would be shared with the Cape Krusenstern National Monument budget.

APPENDIX I: GENERAL ACCESS PROVISIONS FOR SUBSISTENCE AND RECREATION, NOATAK NATIONAL PRESERVE

	<u>SUBSISTENCE</u>	<u>REFERENCE(A)</u>	<u>RECREATION</u>	<u>REFERENCE(A)</u>	<u>CHANGES PROPOSED IN PLAN</u>
SNOWMACHINE	Yes Except: B	ANILCA 811 36 CFR 13.46 43 CFR 36.11(b)	Yes Except: C	ANILCA 1110 43 CFR 36.11(c)	None
OFF-ROAD VEHICLES	No	ANILCA 811 36 CFR 13.46	No	ANILCA 101(E) 43 CFR 36.11(g)	None
MOTORBOAT	Yes Except: B	ANILCA 811 36 CFR 13.46 43 CFR 36.11(b)	Yes Except: C	ANILCA 1110 43 CFR 36.11(d)	None
FIXED-WING AIRCRAFT	Yes	ANILCA 811 36 CFR 13.45 43 CFR 36.11(f)	Yes Except: C	ANILCA 1110 43 CFR 36.11(f)	None
HELICOPTER	No	43 CFR 36.11(f)	No Except: D	ANILCA 1110 43 CFR 36.11(f)	None
DOGS, HORSES AND OTHER PACK ANIMALS	Yes Except: B	ANILCA 811 36 CFR 13.46 36 CFR 2.16 36 CFR 1.4 43 CFR 36.11(b)	Yes Except: C	ANILCA 1110 36 CFR 2.16 36 CFR 1.4 43 CFR 36.11(e)	Superintendent to permanently close entire preserve to use of horses and other pack animals except dogs, as authorized by 36 CFR 13.30, 43 CFR 36.11(h)

ULTRALIGHTS, HOVERCRAFT AND AIRBOATS	No	ANILCA 811 36 CFR 2.17 36 CFR 13.46	No	ANILCA 1110 36 CFR 2.17 43 CFR 36.11(f)	None
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The terms "Yes" and "No" in the subsistence and recreation columns reflect a general rule as to whether a specific type of access is allowed. Where exceptions to the general rule exist, they are noted and explained in the appropriate footnote.

FOOTNOTES

- A. ANILCA stands for the Alaska National Interest Lands Conservation Act of 1980; 36CFR13.00 stands for Title 36 of the Code of Federal Regulations, Part 13.00; 43 CFR 36.00 stands for Title 43 of the Code of Federal Regulations, Part 36; E0 stands for Executive Order.
- B. The superintendent may restrict or close a route or area to use of snowmobiles, motorboats or dogteams or other means of surface transportation (13.46 b and c).
- C. The superintendent may close an area or restrict an activity on an emergency, temporary, or permanent basis (36 CFR 1.5 and 13.30, and 43 CFR 36.11(h)).
- D. The use of a helicopter in any park area, other than at designated landing areas or pursuant to the terms and conditions of a permit issued by the superintendent, is prohibited (43 CFR 36.11(f)(4)).
- E. Executive Order 11644 prohibits the designation of ORV areas and trails in officially designated wilderness. The executive order also requires a determination that the location of ORV areas and trails in nonwilderness park units will not adversely affect the natural, aesthetic, or scenic values.

SUMMARY: OTHER ACCESS PROVISIONS, NOATAK NATIONAL PRESERVE

<u>PROVISION</u>	<u>REFERENCE</u>	<u>CHANGES PROPOSED IN PLAN</u>
1. <u>Access to Inholdings</u> (Applies to holders of valid property or occupancy interests)	ANILCA 1110 36 CFR 13.31 43 CFR 36.10 43 CFR 36.11	None
Ensures adequate and feasible access, subject to reasonable regulations to protect the natural and other values.		
2. <u>Temporary Access</u> (Applies to state and private landowners not covered in 43 CFR 36.10 and 36.11).	ANILCA 1111 43 CFR 36.12	None
Superintendent shall permit temporary access across a park area for survey, geophysical, exploratory or similar temporary activities on nonfederal lands when determined that such access will not result in permanent harm to park area resources.		
3. <u>Transportation and Utility Systems</u> <u>In and Across, and Access into, Conservation System Units</u>	ANILCA TITLE XI 43 CFR 36	None
Sets procedures for applications and approvals. Must be compatible with purposes for which the unit was established and no other economically feasible and prudent alternative route exists; establishes terms and conditions of rights-of-way.		

<u>PROVISION</u>	<u>REFERENCE</u>	<u>CHANGES PROPOSED IN PLAN</u>
<p>4. <u>Revised Statute 2477</u> <u>(Rights of Way)</u></p> <p>Revised Statute 2477 (repealed in 1976) provides that: "The right of way for the construction of highways over public lands, not reserved for public uses, is hereby granted". Noatak National Preserve was established subject to valid existing rights, including rights-of-way established under RS 2477. The validity of these rights-of-way will be determined on a case-by-case basis. These rights-of-way are discussed further in the access and transportation section of chapter III. A list and map of the right-of-way that the state contends may be valid under RS 2477 are located in appendix K.</p>	43 USC 932	Work with the state of Alaska to determine validity of RS 2477s on a case-by-case basis.
<p>5. <u>Navigation Aids and Other Facilities</u></p> <p>Access is provided to the existing air and water navigation aids communication sites, and facilities for weather, climate and fisheries research and monitoring. Subject to reasonable regulation. Access also provided to facilities for national defense purposes.</p>	ANILCA 1310	None
<p>6. <u>Alaska Department of Fish and Game</u></p> <p>The National Park Service recognizes the right of the Department to enter onto park lands after timely notification to conduct routine management activities that do not involve construction, disturbance to the land, or alterations of ecosystems.</p>	NPS/ADF&G Master Memorandum of Understanding	None

<u>PROVISION</u>	<u>REFERENCE</u>	<u>CHANGES PROPOSED IN PLAN</u>
<p>7. <u>Alaska Mineral Resource Assessment Program</u></p> <p>Allows for access by air for assessment activities permitted by ANILCA section 1010 subject to regulations ensuring that such activities are carried out by the U.S. Geological Survey or their designated agents and in an environmentally sound manner.</p>	ANILCA 1010	None
<p>8. <u>Helicopter Use</u></p> <p>The use of helicopters is generally prohibited. The superintendent may permit the use of helicopters subject to terms and conditions of a permit.</p>	43 CFR 36.11(f)	None
<p>9. <u>Easements</u></p> <p>Campsite and linear access easements may be reserved on native corporation lands that are within or adjoin the preserve. The routes and locations of these easements are identified on maps contained in conveyance documents. The conveyance documents also specify the terms and conditions of use including periods and methods of public access. It is anticipated that the National Park Service will be responsible for the management of at least eight public access easements adjoining the preserve and possibly others within and adjoining the preserve as future land conveyances are made to NANA and Kikiktagruk Inupiat Corporation (Kotzebue village corporation).</p>	ANCSA 17(b)	None

APPENDIX J: DEFINITION OF TRADITIONAL

In applying the provisions of ANILCA as related to "means of surface transportation traditionally employed" (section 811) and "the use of snowmachines . . . , motorboats, airplanes, and nonmotorized surface transportation methods for traditional activities" (section 1110), the National Park Service has relied on the following definitions of "tradition(al)" from Webster's Third New International Dictionary of the English Language, (unabridged), 1976:

2. The process of handing down information, opinions, beliefs, and customs by word of mouth or by example: transmission of knowledge and institution through successive generations without written instruction . . .

3. An inherited or established way of thinking, feeling, or doing; a cultural feature (as an attitude, belief, custom, institution) preserved or evolved from the past; usage or custom rooted in the past (as of a family or nation); as a (1) a doctrine or practice or a body of doctrine and practice preserved by oral transmission (2) a belief or practice or the totality of beliefs and practices not derived directly from the Bible. . .

5.a. Cultural continuity embodied in a massive complex of evolving social attitudes, beliefs, conventions, and institutions rooted in the experience of the past and exerting an orienting and normative influence on the present b. the residual elements of past artistic styles or periods...

The National Park Service recognizes that it would be valuable to pursue, with those affected, the refinement of this definition in the context of the legislative history. In the interim, the National Park Service will continue to use this definition in applying the above-referenced provisions of ANILCA.

To qualify under ANILCA, a "traditional means" or "traditional activity" has to have been an established cultural pattern, per these definitions, prior to 1978 when the unit was established.

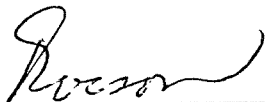
APPENDIX K: FINDING OF NO SIGNIFICANT IMPACT

The National Park Service is proposing to implement the final general management plan and land protection plan for Noatak National Preserve. The general management plan is intended to guide the management of the preserve for a period of five to 10 years and addresses all the major topics of management, including resources management, general public use, subsistence, access and development. The land protection plan is reviewed, and revised as necessary, every two years, and presents proposals for the nonfederal land within and near the preserve.

A draft of the general management plan/land protection plan/wilderness suitability review/environmental assessment was distributed to the public in the spring of 1985, and comments were accepted until the end of August. A subsequent revised draft was distributed for a 60-day public comment period in December of 1985.

The environmental assessment analyzed the impacts of two alternative management strategies for the preserve, including the impacts on wildlife, vegetation, cultural resources, monument operations, and the local economy. It was determined that the proposal will cause no adverse impacts on the public health, public safety, or rare or endangered species. No highly uncertain or controversial impacts, or significant cumulative effects, were identified. Any negative environmental effects will be minor and or temporary. The proposal will result in positive effects upon natural and cultural resources within the preserve as a result of natural resource research and monitoring and through cultural resource identification and protection. A complete evaluation of impacts resulting from the proposal and alternatives can be found in the Draft General Management Plan/Land Protection Plan/Wilderness Suitability Review/Environmental Assessment (March 1985).

Based on the environmental analysis and public and agency comment on the proposed plan, I have determined that the proposed federal action will not significantly affect the quality of the human environment, and therefore an environmental impact statement will not be prepared.



Regional Director, Alaska Region

11/26/85
Date

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PLANNING TEAM

Mack Shaver, Superintendent, Northwest Areas (Cape Krusenstern National Monument, Kobuk Valley National Park, and Noatak National Preserve), Kotzebue, NPS

Jack Mosby, Team Captain, Outdoor Recreation Planner, Alaska Regional Office, National Park Service (ARO-NPS)

Vaughn Baker, Outdoor Recreation Planner, ARO-NPS

G. Ray Bane, Management Assistant, Northwest Areas, Kotzebue, NPS

Everett Gibbs, Writer-Editor, ARO-NPS

Jonathan Halpern, Ecologist, Denver Service Center (DSC), DSC Project Coordinator, NPS

Keith Hoofnagle, Visual Information Specialist, ARO-NPS

Ken Schoenberg, Archeologist, ARO-NPS

OTHER PARTICIPANTS

Joe Alston, Chief of Concessions Management, ARO-NPS

Susan Anderson, Secretary, Alaska Regional Office, ARO-NPS

Ricky Ashbey, Resource Technician, Noatak, NPS

Larry Beal, Community Planner, ARO-NPS

Judith Bittner, State Historic Preservation Officer, Alaska Division of Parks, Anchorage

Ray Borrás, Estimator, DSC-NPS

William Brown, Historian, ARO-NPS

John Carnahan, North Slope Borough, Anchorage

Garey Coatney, Realty Officer, ARO-NPS

Matt Conover, NANA Regional Strategy, Kotzebue

Roger Contor, Regional Director (formerly), ARO-NPS

Karen Cox, Clerk-typist, ARO-NPS

Craig Davis, Regional Archeologist (formerly), ARO-NPS

Jim Davis, Game Division, Alaska Department of Fish and Game (ADF&G),
Fairbanks

Darlene Ewell, Secretary, ARO-NPS

Carol Delahanty, City Planner, Kotzebue

Joe Dinnocenzo, Commercial Fish Division, ADF&G, Kotzebue

Lynda Earhart, Secretary, ARO-NPS

Doug Erskine, Fire Management, ARO-NPS

Mike Finley, Associate Regional Director-Operations, ARO-NPS

Sally Gilbert, CSU Coordinator, Alaska Office of Governmental Coordination,
Anchorage

Charles Gilbert, Outdoor Recreation Planner, ARO-NPS

Bert Grist, NANA, Anchorage

Kent Hall, Manager, Selawik National Wildlife Refuge, Kotzebue, USFWS

Tom Hamilton, U.S. Geological Survey, Anchorage

Dave Hansen, Alaska Federation of Natives, Anchorage

Leslie Starr Hart, Chief of Cultural Resources, ARO-NPS

Harlon Hobbs, Realty Specialist, Pacific Northwest Regional Office, NPS

David James, Game Division, ADF&G, Ambler

Rebecca Kaiser, Concessions Analyst, ARO-NPS

Ross Kavanagh, Fishery Biologist, ARO-NPS

Al Lovaas, Chief of Science and Natural Resources, ARO-NPS

Terry Miller, Alaska Division of Tourism, Juneau

Eileen Norbert, Subsistence Division, ADF&G, Kotzebue

Pat Pourchot, NANA Regional Corporation (formerly), Anchorage

Roland Quimby, Wildlife Biologist, ADF&G, Kotzebue

Sandy Rabinowitch, Outdoor Recreation Planner, ARO-NPS

Brad Ritchie, Architect, ARO-NPS

Kate Roney, Resource Management Specialist, Kotzebue, NPS

Walter Sampson, Director of Lands, NANA, Kotzebue, NPS

Tim Smith, Assistant State Historic Preservation Officer, Anchorage

Richard Stenmark, Alaska Program Assistant, Washington, D.C. Office, NPS

Richard Stern, Regional Supervisor, Subsistence Division, ADF&G, Nome

Suzy Stutzman, Landscape Architect, ARO-NPS

Larry Van Daele, Assistant CSU Coordinator, ADF&G, Anchorage

Lou Waller, Subsistence Specialist, ARO-NPS

Dave Winegartner, Maniilaq Association, Kotzebue

Wendy Wolf, Alaska Coastal Management Plan, Juneau

As the nation's principal conservation agency, the Department of the Interior has basic responsibilities to protect and conserve our land and water, energy and minerals, fish and wildlife, parks and recreation areas, and to ensure the wise use of all these resources. The department also has major responsibility for American Indian reservation communities and for people who live in island territories under U.S. administration. NPS D-9A December 1986